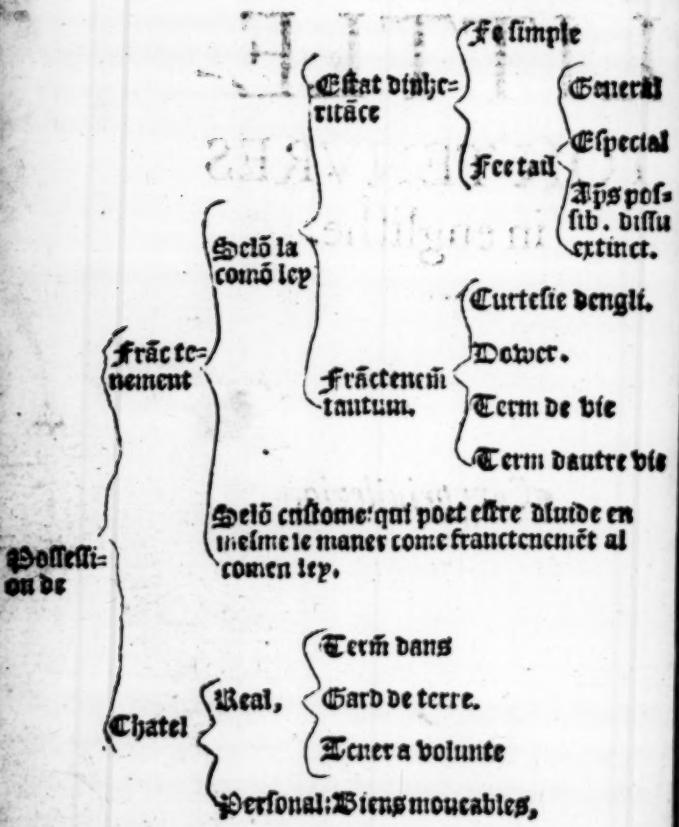
LITTLE-
TON TENVRES
in engliſhe.

¶ *Cum priuilegio.*

A figure of the diuision of possessions.



TEnaunt in fee simple is hee whiche hath landes or tenementes to holde to him and to his heires for euer. And it ys called in Latin feodum simpler, for feodum is called inheritaunce and simpler is as much to say as lawfull or pure, and so feodum simplex is as muche to saye as lawfull or pure inheritaunce. For if a man will purchase landes or tenements in fee simple, it behoueth him to haue these woordes in his purchase, to haue and to holde vnto hym & to his heires, for these woordes (hys heyres) make the estate of inheritaunce. Anno. 20. H. 6. Folio. 38.

¶ For if any man purchase landes by these woordes to haue and to holde to him for euer, or by suche woords to haue and to hold to him and to his assignes for euer. In these two cases hee hath none estate but for terme of lyfe for that ỹ hee lacketh these woords his heirs, which woords onely make the estate of inheritance in all feoffements and graunts.

And if a man purchase landes in fee simple and dye without issue, euerye one that is hys nexte cosin collaterall of the whole blood, how farre so euer that hee be from him of degree may inherite and haue the same lande as heire to him. But if there bee father & sonne, and the father hath a brother, whiche is vncle vnto the sonne, and the sonne purchaseth land in fee simple and dyeth without issue lyuing the father, the vncle shall haue the lande, as

heire vnto the ſonne, and not the father (yet ꝯ father is more nygh of blood vnto the ſonne) for that that there is a ground in the law, that inheritance may lineally deſcend, but not lineally aſcend, yet if ꝯ ſonne in ſuche caſe dye ẅout iſſue & his vncle ētreth into ꝯ land as heir vnto the ſonne ſo as hee ought by the law, and after if the vncle deceaſe ẅythout iſſue liuing the father, then ſhall the father haue the lande as heire vnto the vncle, & not heire vnto the ſonne, for that ꝯ hee cometh vnto the lande by collateral diſcent, & not by lineal aſcention.

And in ſuche caſe where the ſonne purchaſeth land in fee ſimple, & dyeth ẅithout iſſue, they of his blood on the fathers ſyde ſhall inherite as heire vnto him, before any of ꝯ blood of the mothers ſyde. But if hee haue no heire on the fathers ſyde, then ſhal the land deſcend vnto his heir on the mothers ſide. And thys is the oppinion of all the iuſtices M.12.E.4. folio.34. But there it was holden if any land diſcend vnto a man by the fathers ſyde ẅhich dyeth ẅithout iſſue, that his next heire on the fathers ſyde ſhal inherite vnto him, that is to ſay the next of blood of the father of ꝯ graund fathers ſyde. And for default of ſuch an heire they that bee of the fathers blood of the parte of the mothers, of the father (that is to ſaye) ꝯ grandmother ought to enherit. And if there bee no ſuch heire on the fathers ſyde, than the lord ſhall haue the land by eſchete. And ſo it is if a man take a ẅife inherite in fee ſimple,

ẅhich

which hath issue a sonne & dyeth, & ỹ sonne entreth into the tenements as sonne & heire vnto his mother, & after dyeth wout issue, the heirs on the mothers syde ought to enherite the tenemẽts, & not the heires on the fathers syde. And if there be none heirs on the mother side, then the lord of whom ỹ same lande is holden, shal haue the same land by eschete. In ỹ same maner it is if lands discend vnto the sonne on the fathers side, & entreth & after dieth wout issue, the land shall discend vnto the heires on the fathers syde, & not vnto the heires on the mother syde. And if there bee none heires on ỹ father side, then the lord of whome the land is holden shal haue the same land by eschete. And so ye may see the diuersitie, where ỹ sonne purchaseth landes in fee simple, & where hee commeth into those lands or tenements by discent on the father side or on the mother syde.

Also if there be three brethren, & the middle brother purchaseth land in fee simple and dieth without issue, the elder brother shall haue the land by discent & not the ponger. Also if there be. 3. brethrẽ, & the pongest brother purchaseth land in fee simple & dieth without issue the elder brother shal haue the land by discent, & not the middle brother, for that that the elder brother is more worthy of blood.

¶ And it is to bee vnderstande that no man shall haue land in fee simple by discent as heire vnto anye man, but that hee bee hys heire of the whole blood. For if a man haue issue two sonnes, by. 2. ventres and the elder purchaseth

land in fee simple and dyeth without issue, the ponger brother shal not haue the lande but the vncle of the elder brother or some other hys nigh colyn shal haue it, for that that the ponger is but of the half blood to ỹ elder brother. And if a man haue a sonne and a daughter by one venter, and a sonne by an other venter, & the sonne by the first venter purchaseth lande in fee simple and dyeth without issue, the sister shal haue the land by discent as heire vnto her brother and not the younger brother, for that that the sister is of the whole blood to her elder brother.

And also where a man is seised of lande in fee simple, & hee hath issue a sonne & a daughter by one venter and a sonne by an other venter and dyeth, and the elder sonne entreth and dieth without issue, the daughter shal haue the land and not the ponger sonne, and yet is the ponger sonne heire vnto his father and not his brother. But if the elder sonne enter not into the land after the death of his father, but dyeth before enter made by him, then the ponger brother may enter and haue the land as heire vnto his father. But where the elder sonne in the case aforesaid entreth after the death of his father and therof hath possession, then ỹ sister shal haue the land. Nuda possessio fratris de feodo simplici facit sororem esse heredem. For the possession of the brother in fee simple maketh the sister to bee heire.

But if there bee two brethren by dyuers

bentres, and the elder is seised in fee simple & dyeth without issue, and his vncle entreth as heire vnto him, which also dyeth without issue, then the ponger brother may haue the land as heire vnto his vncle, because hee is of ỹ whole blood to him though hee bee but of halfe blood vnto his elder brother.

And it is to be vnderstand, that this word inheritaunce, is not onely vnderstande where a man hath landes or tenements by dyscent of heritage. But also euery fee simple or fee taile that a man hath by his purchase, may be saide inheritance, for that, that his heires maye inherite him. For in a writte of ryght that a mā bringeth of lande, that was of his owne purchase, the writ shal saye: Quam clamat esse ius & hereditatem suam. That is to saye, which hee claimeth to bee his right & his inheritaunce. And so it shalbee said in dyuers other writtes whiche a man or a woman bringeth of theire owne purchase, as it appeareth by the Register.

And of suche thinges as a man may haue a manuell occupacion, possession, or receyte, as of landes, tenementes, rentes, and such other, a man shall say in his pleding, and in waye of barre, that one such was seised in his demesne as of fee, But of suche thinges that lye not in manuell occupacion &c. as of auowson of a church, and such maner thing, there hee shall saye, that hee was seised as of fee, and not in his demesne as of fee. And in latine it ys in

the same case said. Quod talis fuit seisitus in dominico suo vt in feodo, that is to saye, that suche one was seised in his demeane as of fee, and in that other. Quod talis fuit seisitus &c. vt de feodo, that is to say, that one suche was seised as of fee.

And note well that a man maye not haue a moze large ne greater estate of inheritaunce then fee simple.

Also, purchace is called the possession of landes oz tenementes that a man hath by hys deede oz by his agreement, vnto which possession hee commeth not by discent of any of hys auncesters, oz of his cosins, but by his owne deede.

¶ Fee taile.

TEnaunt in fee taile is by foze of a statute of westminster the second. Ca. primo. Foz at the common law befoze the sayde statut, all inheritance were fee simple. Foz all the giftes which been specified within the same statute, were fee simple condicionally, as it appeareth by the reherfall of the statute. And nowe by the same statute, tenaunt in the taile is sayde in two maners, that is to saye, tenant in taile generall, and tenaunt in taile speciall.

¶ Tenaunt in taile generall is, where landes oz tenements bee geuen to a man and to hys heires of his body begotten. In this case it is sayde generall taile, foz that that whatsoeuer woman that the tenaunt taketh to wyfe, if he haue many wyues, and by eche of them hath

issue

ſſue, yet eche one of theſe iſſues by poſſibilitye maye enherite the tenementes by force of the ſaide gifte, becauſe that euery ſuch iſſue is of his body engendred.

In the ſame maner is, where landes and tenements bee geeuen to a woman and to the heires comming out of her body, howbeit that ſhee haue many huſbandes, yet the iſſue that ſhee may haue by eche huſband, maye inherite as iſſue in the taile by force of ſuche gyftes. And therefore ſuch giftes been called general taile.

Tenaunt in taile ſpeciall, is where landes and tenementes bee geeuen vnto a man & hys wife and the heires of theire twoo bodyes begotte. In ſuch caſe none may inherit by force of ſuche gift, but thoſe that bee engendred betweene them two, & it is called eſpecial taile, for that if the wife dye, and he taketh an other wyfe & hath iſſue, the iſſue of the ſecond wyfe ſhall neuer inherite by force of ſuch gifte. Nor alſo the iſſue of the ſecond huſband if the firſt huſband dye.

In the ſame maner it is, where landes and tenementes bee geeuen by a man vnto an other with a wife, whiche is the daughter or coſin to the geeuer in frank mariage, whyche gift hath inheritance by theſe woordes, frank mariage, vnto it annexed, how bee it that they bee not expreſſely ſaid or reherſed in the gyfte, that is for to ſaye, that theſe donees ſhal haue theſe landes or tenementes to them & to theire

heires

heires betweene two engendred, and this is
sayd especial taile, for that the issue of the secod
wife may not inherite.

And note well, that this woord talliare, is
to say, to set vnto some certeinty, or els limitt
vnto some certain inheritaunce. And for that
that it is limitt & set in certain, what issue shal
inherite by force of suche gifres, and how long
that the inheritaunce shal endure. Therefor
it is called in latten. Feodum talliatum. i. he-
reditas in quadã certitudine limitata. For if
tenant in general tayle dye wout issue, the do-
nour or his heires shal inherite as in their re-
uersion. In the same wise is of the tenaunt in
the taile especial &c. For in euery gift of ỹ tail
wout more saying, the reuersion of fee simple
is in the donour.

And the donees and theire heires shall de-
to the donour and to his heires, such seruyce
as ỹ donour dooth vnto his Lord next above
Except the donees in frank mariage, which
shall hold quietly from euerye maner seruice
(but if it bee for fealtye) vntil the fourth de-
gree bee past. And after that the fourth de-
gree is past, the issue in the fyrst degree, and
foorth the other issues after hym, shal holde
the donour and of his heires as they hold ou
as is aforesaid.

And the degrees in frankmariage shall
accompted in suche maner, that is to say, fro
the donour to the donees in frank mariage
fyrst degree, for that that the wife that is

of the donees ought to bee daughter sister or other colyn to the donour. And from the donees vnto their issue shalbee accompted the second degree. And from theire issue vnto their issue, the third degree and so fooryth &c.

And the cause is, for that after euery suche gift, the issues that come of the donour, and the issues that come of the donees after the fourth degree past of bothe parties in suche fourme to bee accoumpted, may betwixt them by ỹ law of holy church intermary. And that the donee in franke mariage shalbee the fyrste degree of the fower degrees, a man may see in a plee vppon a writte of right of warde, anno 31. E. 3. where the pleintife pleadeth that hys ayel or graundfather was seised of certayne landes &c. And that hee helde of an other by knight seruice &c. Whiche gaue the land vnto one Raufe Holland with his sister in franke mariage &c. And all these tailes before sayde bee specified in the saide estatute of Westminster the second.

¶ And there bee dyuers other estates in the taile, howbeit that they bee not specified by expresse woords in the said estatute, but they bee taken by the equitie of the statute, as yf lands bee geeuen vnto a man and to his heirs males of his body engendred. In such case hys heire male shall inherite, and the issue female shall neuer inherite, yet in these other tailes aforesayd it is otherwise. In the same maner it is if landes bee geeuen to a man and

to

to his heirs females of his body engēdred. In this case his issue females shall enherite by force & forme of the said gift and not the issue male, for that in such cases where the gift is, who ought to enherit and who not, the wil of the donour shalbe obserued. And ẏ case when landes bee geeuen vnto a man and to his heires males issuing of his body, & hee hath issue two sonnes and deceaseth, the elder sonne entreth as heire male, and hath issue a daughter and deceaseth, his brother shal haue the lande and not the daughter, for ẏ the brother is heire male. But it shalbee otherwise in these other tailes aforesaide, which been especified in the said estatute, the daughter shall inherite before the brother.

And if lande bee geeuen vnto a man, and to his heires males of his bodye engendred and hee hath issue a daughter, whiche hath issue a sonne and deceaseth and after that the donour deceaseth: in this case the sonne of the daughter shall not inherite by force of the taple, for that whosoeuer shall inherit by force of a gift in the taile made vnto hys heires males behoueth to cōuey his discent away by ẏ males .M.18.Edw.3. folio.45. But in suche case the donour shall enter for that the donee is dead wythout issue male in the lawe. In so much that the issue of the daughter maye not conuey to him the discent of heyre male. And in the same maner it is where landes bee geeuen to a man and to his wife and to his heires

males

nales of their twoo bodyes ingendred.

Also if tenementes bee geeuen to a man and his wife, and to the heires of the body of the man engendred, in this case the husband hath estate in the general taile & the wife but estate for terme of lyfe.

Also if landes bee geeuen to the husbande and to the wife, and to the heires of the husbande whiche hee engendreth of the bodye of the wife. In this case the husband hath estate in the speciall taile, and the wife but for terme of lyfe.

And yf the gifte bee made to the husbande and to the wyfe, and to the heires of the wyfe of her body by the husbande engendred, then the wife hath estate in ỹ speciall taile, and the husband but for terme of life. But if lands be geeuen to the husbande and the wife, & to the heires that the husbande engendreth on the body of the wife: In this case both haue estate in the taile, for that thys woord (heyres) is not limitted no more to the one then to the other.

Also if landes bee geeuen to a man and hys heires that hee engendreth on the body of hys wife, in this case the husband hath estate in ỹ taile special, and the wife nothing.

Also if a man haue issue a sonne, and deceaseth, and the land is geuen to the sonne, and to the heire of the body of his father ingendred, this is a good taile, & yet the father was dead at the tyme of the gift.

Also

Also there bee many other estates in ỹ tayle by the equity of the saide estatute that bee not specified heere. But if a man geeue landes or tenements to an other to haue and to holde to him and to hys heires males, or to hys heires females, hee to whome such gift is made hath fee simple, for that it is not limitted by the gift of what body the issue male or female shalbee, and so it may not in anye thing bee taken by ỹ equity of the said estatute, & therefore he hath fee simple.

¶ Tenaunt in taile after possibility of issue extinct.

TEnaunt in the taile after possibility of the issue extinct, is where as lands or tenemẽts bee geeuen vnto a man and his wyfe in speciall taile, if one of them decease without issue, he that suruyueth is tenant in the taile after possibility of issue extinct. And if they haue issue during the lyfe of the issue, hee that suruiueth shal not bee said tenaunt in the taile after possibility of issue extinct. yet if the issue decease without issue, so that there bee none aliue ỹ may inherite by force of the taile, then hee that suruiueth of the doners is tenaunt in the taile after possibility of issue extinct.

Also if landes bee geeuen to a man and to his heires that bee engendred on the bodye of his wife. In this case the wife hath nought in the tenementes, and the husbande is seised

ed as done in speciall taile. And in this case if the wife decease without issue of her body engendered by her husband, then the husband is tenaunt in the taile after possibilitye of issue extinct.

And note well, that none maye bee tenaunt in the tayle after possibilitie of issue extincte, but one of the donces or the donee in speciall tayle, for the donee in generall taile may neuer be said tenaunt in the taile after possibilitie of issue extinct, for that alway during his life, her may by possibility haue issue that may inherite by force of the same taile. And so in the same maner the issue that is heire vnto the dones in a speciall taile, maye not bee sayde tenaunt in tayle after possibility &c. causa qua supra.

And tenant in taile after possibility of issue extinct shal neuer bee punished of waste, for ỹ inheritaunce that once was in him. An. 10. H. 6. fo. 1. But hee in the reuercion maye enter if hee dooth alien in fee. An. 45. E. 3. fo. 22.

¶ Tenant by the curtesie of England.

¶ Tenaunt by the curtesye of Englande, is where a man taketh a wyfe seysed in fee simple, or of fee taile generall, or as heire in the tayle speciall, and hath issue by the same wyfe, male or female. The issue after beeing dead or alyue, if the wyfe decease, the husband shall hold the same during hys lyfe by ỹ lawe of

of England, & this is called tenaunt by ỹ curtesy, for that it is not vsed ī none other realme but onely in Englande. And some saye that he shall not bee said tenant by the curtesy, but yf that childe that hee hath by his wife be harde crye, for by the crye is the prooke that ỹ chylde that hee had by his wife was borne.

¶ Tenant in Dower.

TEnaunt in dower is, where a man is seised of certein lands or tenements in fee simple, or in taile general, or as heire in ỹ taile special, and taketh a wife and deceaseth, the wife after the decease of her husbande shall bee endowed of the thirde parte of suche landes or tenementes that were her husbandes any time during the couerture, to haue and to holde in the same wife in seueralty by metes & bondes for terme of her lyfe, whether shee haue by her husbande issue or none, and of what age that the wife bee, so that shee passe the age of nyne yeres at the tyme of her husbands death, or els shee shall not bee endowed. And note well, that by the common lawe the wife shall not haue for her dower but the thirde parte of the tenements, which were her husbands during the espousels. By custome of some countrey shee shall haue the halfe, and by custome of some towne or borough, shee shall haue the whole, and in all these cases shee shalbee sayde tenaunt in dower.

All

¶ Also there is two other maner of dowers, that is to say, dower called dowement in the churche dooze, and dower called dowement by the fathers assent. Dowemēt at the Churche dooze is where a mā of full age is seised in fee simple whiche shall bee wedded vnto a wife, when hee commeth to the churche dooze, and there after affiance, and truthe plight made betweene them, endoweth his wife of hys whole land, oz of the half oz lesse parcell, and there openly declareth the quātitie & the certaine of his lande that shee shall haue, for her dower. In this tale the wife after the death of her husband shal enter into the sayde quantitie of lande, of which her husbande endowed her without the assignement of any manne. Dowement by the fathers assent, is where the father is seased of tenements in fee, and hys sonne and heyre apparant when hee is wedded, indoweth his wyfe at the Church dooze of parcell of the landes oz tenementes of his fathers of chattel of his father, and assigneth the quantitie of the parceles. In this tale after the death of the sonne, the wife shal enter in the same parcell without the assignement of any other. But it hath ben said in this tale that it behoueth the wife to haue a deede of the father, prouyng his assent and consent of suche endowement. And if after the death of the husbande shee enter and agree to anye suche dower of the sayde twoo dowers at the churche dooze, than she is concluded to claime

anye other Dower by the common lawe of the
nye landes or tenementes, whyche were of
her fayde husband: But if shee will, she may
refuse suche Dower at the churche dooze, and
than shee may bee endowed after the course of
the common lawe. And note well, that no
wyfe shalbee endowed of the fathers assets
in the fourme aforesayde, saue where the hus-
band is sonne and heire apparaunt to hys fa-
ther.

¶ Inquere in these two cases of Endowe-
ment at the churche dooze, if the wyfe at the
tyme of the death of her husbande passe not
the age of. 9. yeares, if shee shall haue suche
Dower or no.

¶ And note wel, that in all cases where the
certaynte appeareth what landes or tene-
mentes the wyfe shall haue for her Dower,
the wyfe maye entre after the deathe of her
husbande wythoute assignement of anye o-
ther. But where the certaynte appeareth
not, as to bee endowed of the thyrde part of
haue in seuerall, or to bee endowed of the
halfe after the custome to holde in seuerall.
In suche cases it behoueth that her Dower
bee vnto her assigned after the deathe of her
husbande, because it is not limitte before
the assignement what parte of landes or te-
nementes shee shall haue for her Dower. But
if there bee twoo toyntenauntes of certayne
landes in fee, and the one alieneth that, that
to hym pertaynethe and belongeth, to an-

ther

ther in fee, whiche taketh a wife and after dieth: In this case the wife for her Dower shall haue the thirde parte of the halfe that her husbande purchased, to holde in common and occupy in common as her part amounteth wyth the heire of her husbande, and with the other tenenant whiche alieneth not, for that in suche case her dower may be assigned by metes and boundes.

¶ And it is to vnderstande, that the wife shall not be endowed of landes or tenements that her husband ioyntly held with another at the time of hys death. But where hee holdeth in common otherwise it is, as in the case afore sayde. And it is to wit that if the tenaunt in tayle endowe his wife at the church dooze as it is afore sayde, ỹ shal serue for little or naught to the wife for that that after the death of her husbande the issue in the tayle may enter vpon the possessiõ of ỹ wife, & so may he in ỹ reuercõ if there be none issue in the tayle alive.

¶ Also if a man seised in fee simple being with in age endowe his wife at the Churche dooze and dyeth, and the wife entreth. In this case the heire of the husband may put her out. But otherwise it is as it seemeth where the father is seised in fee, and the sonne within age endow his wife of his fathers assent the father then being of full age.

¶ Also there is another Dower whyche is called Dowement de la pluis beale. And that is as in suche case that a man is seised

of xl. acres of lande, and hee holdeth .xx. of the
said xl. acres of one man by knightes seruyce,
and the other xx. acres of an other in socage, &
taketh a wife, and hath issue a sonne, and dy-
eth his sonne being within ỹ age of 14. yeres,
and the lorde of whom the lande is holden by
knightes seruice entreth into the xx. acres of
lande holden of him, and them hath and occu-
pyeth as warden in chiualry duryng the chil-
des nonage, & the childes mother entreth in
the remnaunt, and it occupyeth as garden &
warden in Socage. It in this case the wife
bryng a writte of Dower agaynst the war-
den in chiualrye to bee endowed of the tene-
ments holden by knights seruice in the kings
court or in anye other court, the warden in
chiualrye may plede in suche case al the mat-
ter and shewe howe the wife is warden in so-
cage as it is aforesayd, and prayed that it may
be aiudged by the court that the wife endow
her self of the most faire called pluis beale of
the tenements that shee hath as warden in
socage after the value of the thirde parte that
she claimeth to haue of the tenementes in chi-
ualry by her writ of dower, and if the wife
may not gain say it, then the iudgemẽt shall be
made that the warden in chiualry shall hold
the landes holden of him duryng the nonage
of the childe quite from the woman &c. And
that the woman maye endowe her selfe of the
most faire parte of the landes that she hath in
wardeyne in socage to the value of the third

part

part that the wardein in chiualry hath. &c.
And after such iudgement giuen, the wife may
take hir neighbours, and in theyr presence en-
dowe hir selfe by meetes and boundes of the
fayrest part of the tenements that she hath, as
wardein in socage to the value of the thirde
part of the lands that the wardein in chiualry
hath, and that to haue and holde for terme of
hir lyfe. And such dower is called dower of
the fairest part, or de pluis beale.
With this agreeth 28. lib. Ed. iij. fo. 4. But
there it was sayde, that after the time that the
heyre come to his full age, the wife shall haue
newe action of dower against the heire to be
endowed of the thirde part of all that the man
was seised. And note well that such dowment
may not be, but where the iudgement is giue
in kings court, or in some other court. And
the wife may doe this for saluacion of the state
of the wardein in chiualry during the nonage
of the childe. And so ye may see fiue maner of
dowers, that is to say dowement by the com-
mon Lawe, dower by custome, dower at the
church dooze, dower of the fathers assent, and
dower of the most fayre. And remember that
in euery case where a man taketh a wife sca-
ped of such estate of tenementes &c. so that the
issue that he hath by his wife may by possibi-
litie inherite the same tenements of such estate
as the wife hath, as heyre to the wyfe: In
case after the wyfe is dead, he shall haue
same tenementes by the courtesy of Eng-

land and otherwise not.

¶ And also in euery case where the wyfe taketh an husbande seysed of such estate of tenementes &c. so that by possibilitie it may happe the wife to haue some issue by hir husband and that the same issue may by possibilitie inherite the same tenemẽts of such estate that the husbande had, as heyre to his father, of such tenementes shee shall haue hir dower, and otherwyse not. For if the tenementes be giuen vnto a man & to the heires that he getteth on his wifes body, in such case the wife hath nought in the tenements. And the husband hath estate but as done in speciall taile. yet if the husband die without issue, ỹ same wife shalbe endowed of the same tenementes, for that the issue that she by possibilitie might haue had by the same husbãd, may inherite the same tenemẽts. But if the wife decease liuing the husbande, & after taketh another wife, the second wife shall not be endowed in this case. Causa qua supra.

¶ A man was seysed of certayne landes, and tooke wyfe, and after aliened the same landes wyth warrantie, and after the feoffour and feoffee dyed, and the wife of the feoffour byngeth an action of dower agaynst the issue of the feoffee, and he vouched the heyre of the feoffour, and during the voucher and not determined, the wyfe of the feoffee byngeth an action of dower agaynst the heire of the feoffour and demaundeth the thirde part of all that her husbande was seysed, and woulde not

maunde the thyrde parte of those two parties that his husband was seysed, it was iudged y she should haue no iudgement untyll the time that the other plee were determined.

And also note that Vauasour sayth, that if a man be seysed of landes and committeth felonie, and alieneth, and after is attaynted, the wyfe shall haue good action of dower agaynst the feoffee. But if it be eschete vnto the king, or vnto the Lorde, she shall haue no writte of dower. And so see the diuersitie, and inquyre the cause.

¶ Tenant for terme of life.

TEnaunt for terme of lyfe is, where a man letteth landes or tenementes to a man for terme of lyfe of the lessee, or for terme of lyfe of an other man. In such cale the lessee is tenaunt for terme of lyfe. But by common language, he that holdeth for terme of his owne lyfe, is called tenaunt for terme of life, and hee that holdeth for terme of an other mans lyfe, is called tenaunt for terme of an other mans lyfe. And it is to be vnderstande, that there is feoffour and feoffee, donour and donee, lessour and lessee. The feoffour is properly wher a man enfeoffeth an other in anye landes or tenements in fee simple, he that maketh the feoffement is called feoffour, and he vnto whom the feoffement is made, is called feoffee, and the donoure is properlye where a manne greeth certayne landes or tenementes to an other in

the taile, he that maketh the gifte is called do-
nour, and he to whom the gift is made is cal-
led donee. And lessour is properly where a
man letteth to an other certayne landes or te-
nementes for terme of life, for terme of yeres,
or to holde at will, he that maketh the lease is
called lessour, & he to whom the lease is made
is called lessee, and euery one that hath estate
in landes or tenements for terme of his owne
life, or for terme of an other mans life, is cal-
led tenaunt of free holde. And none of lesse es-
tate may haue free holde, but they of greater
estate may haue free holde, for tenaunt in fe
simple hath free holde, and tenaunt in the taile
hath also free holde.

Tenaunt for terme of yeres. Cap. vij.

Tenant for terme of yeres is, where a man
letteth landes or tenements to an other for
terme of certayne yeares after the number of
yeres that is accorded betwene the lessour and
the lessee, and when the lessee entreth by force
of the lease thē is he tenant for terme of yeres,
and if the lessour in such case reserue to him a
yerely rent vpon such lease, hee may chose by
to distreine for the rent in the tenementes let-
ten, or elles he may take an accion of debt for
the arrerages agaynst the lessee. But in such
case it behoueth that the lessour bee seysed in
the same tenements at the time of his lease for

it is a good plee for the lessee to say that the lessour had nothing in the tenements at the time of the lease, except the lease be made by deede enderited, in whych case then such plee lyeth not for the lessee to plede.

¶ And it is to be vnderstand that in a lease for terme of yeares by deede or without deede, it needeth no liuery of seisin to be made to the lessee, but he may enter whensoeuer he will by force of ỹ same lease. But of feoffemẽts made in the countrey or giftes in the tayle, or leases for terme of lyfe, in such cases where free hold shall passe if it be by deede or without deede, it behoueth to haue liuery of seisin. &c. But if a man let lands or tenements by deede or without deede for terme of yeres, the remainder ouer to an other for terme of lyfe, or in the tayle or in fee, then in such case it behoueth that the lessor make liuery of seisin to ỹ lessee for terme of yeares, or else there shall nothinge passe to them in the remainder, though the lessee enter in the tenementes. And if the termour in such case enter before any such liuery of seisin made vnto him, then is the free holde and the reuercion in the lessour. But if he make any liuery of seisin vnto the lessee, then is ỹ free holde & the fee to them in the remainder after ỹ forme of the graunt and will of the lessour.

¶ And if a man will make a feoffement by deede or without deede of landes or tenementes that hee hathe in manye townes in one shire, if the liuerie of seysin bee made in one

parcell

parcell of the tenementes in one towne in the name of all, it suffiseth for all the other landes or tenements cõprehended in the same feoffemente, in all other townes in the same shire. But if a man make a deede of feoffement of lands or tenemẽts in diuers shires, ther it behoueth him to haue in euery shire a liuery of seisin. And in such case a man shal haue by the graunt of another fee simple, fee tayle, or free hold without liuery of seisin. And if .ij. men be, & eche of them is seised of a quantitie of lande within one shire, & the one graũteth his lande to the other in exchange for that lande that the other hath, & in the same maner ỹ other graũteth his lande vnto ỹ first graũtor in exchange for ỹ lande ỹ the first graũtor hath: In this case eche may enter in the others lands so taken in exchãge without any liuery of seisin. And such exchange made by wordes of tenemẽts within the same shire without any writinge is good inough. And if the landes or tenementes be in diuers shires, ỹ is to say, if that the one haue in one shire, & the other hath in an other shire, it behoueth to haue a deede indented made betweene them of such exchaunge.

¶ And note, that in exchange it behoueth that the estates that both parties haue in the landes so exchanged be equal. For if the one willeth and graũteth that the other shall haue his lande in the tayle, for the lande that he hath of the graunte of the other in fee simple, though the other is agreed to that, yet this exchaunge

is but

is but voyde for that the estates be not euen.

¶ In the same maner it is where it is graunted and agreed betwene them that ỹ one shall haue in the one land fee tayle, & the other shall haue in the other land but terme of lyfe. Or if one shall haue in the one lande fee tayle generall, and the other in the other land fee taile especial. So alwaye it behoueth that in exchãge the estate of both parties be euẽ, that is to say if that one haue fee simple in the one land, that the other shall haue suche estate in the other lande, and if the one hath fee tayle in the one lande, then the other shall haue likewise in the other lande. Et sic de aliis statibus. But it is nothinge to charge of the euen value of the landes, for though that the lande of the one is so muche more in value than the lande of the other, thys is nothing to purpose, so that the estates made by the exchaunge be euen, and so in exchaunge be two grauntes, for euery parte graunteth his land to the other in exchaunge, and in eche of their grauntes mencion shal be made of the exchaunge.

¶ And if a man let lande to another for terme of yeres though the lessour die before the lessee enter into the tenementes, yet may he enter in to the tenementes after the death of ỹ lessour, for that, that ỹ lessee by force of the lease, hath ryght incontinent to haue the tenementes after the fourme of the lease. But if a manne make a deede of feoffemẽt vnto another and a letter of attorney to a man to delyuer to hym

seisin

seisin by force of ỹ same deede, yet if the liuery of seisin be not made in the lyfe of hym that made the deede, it auayleth not, for that the other hath no maner of right to haue the tenements after the purporte of the deede before ỹ liuery of seisin &c. And if no liuery be made thẽ after the death of him that made the deede ỹ right of such tenements is continent in hys heire or in some other. Also if tenementes bee let to a man for terme of halfe a yeare, or for terme of a quarter of a yeare &c. In such case if the lesse make waste, the lessour shall haue agaynst him a writte of waste, and the writte shall say: Qui tenet ad terminum annorum. But he shall haue a speciall declaration vpon the trouth of his matter, and the plee shall not abate the writ for that that he may haue no other writ vpon the matter. Anno. 7. H. 7. fo. 1.

¶ Tenant at will. Ca. 8.

TEnaunt at wyll is, where landes or tenements bee letten by a man vnto an other, to haue and to holde to him at the will of the lessour, by force of which lease the lesse is in possession. In such case the lessee is called tenant at will, for that he hath no certayn sure estate, for the lessor may put him out at what time it pleaseth hym, yet if the lessee sowe the lande and the lessour after the sowinge and before that his graynes be rype putteth him out, yet shal the lessee haue his greynes, and shal haue free egresse and regresse to reape and to carry

his

hys greines, for that he wist not at what time his lessour would enter vpon him. Otherwise it is if tenãt for terme of yeres before the end of his terme loweth the land, and the terme is ended before that his greines be ripe. In this case the lessour, or he in the reuersiõ shal haue the greynes, for that the termour knewe wel the certaine of his terme and whan his terme should be ended.

¶ Also if an house be let to a man to holde at will, by force of which the lessee entreth into the house, within which house he bringeth his houshold stuffe, and after the lessour putteth him out, yet shal hee haue free entree, egresse and regresse, in the same house by reasonable tyme to carry his goods and houshold stuffe. And if a man be seised of a house in fee simple, fee taile, or for terme of lyfe, the whiche hathe certayne goodes within the same house, and maketh his executours and deceaseth, who soeuer after his death hath the house yet shall his executours haue free entre, egresse and regresse to carye out of the house the goodes of their testatours by a reasonable time.

¶ Also if a man make a deede of feoffement vnto another of certaine lande and deliuereth to him the dede but no liuery of seisin: In this case he to whom the deede is made may enter into the land, and holde & occupy it at the will of him that made the dede for that, that is moued by the wordes of the deede, that it is his will that the other shal haue the lande. But

he that

he that made the dede, may put him out whē he will.

¶ Also if an house be let to holde at will, the lessee is not holden to sustayne or repayre the house, as tenaunt for terme of yeares is holden to doo. But if the lessee at will make voluntary waste, as in pulling downe of houses, or in cutting or felling of trees: It is sayd that the lessour shall haue for that agaynst hym an action of trespas. As if I deliuer to a man my shepe to bong or marle his land, or mine oxen to ayre his land, and hee slayeth my beast, I maye well haue an action of trespas agaynst hym, notwithstanding the delyuery.

¶ Also if the lessour vppon suche lease at will, reserue vnto him a yearely rent, hee maye distreyn for the rent beehynde, or to haue for that an action of det at his owne choise. Ly. 6. H. 7. in Replenin.

¶ Tenaunt by copy of court roule. Cap. 9.

TEnaunt by coppy of court rolle, is as if a man be seised of a manner within whych Maner there is a custome, and hath been vsed in time out of mynd, that certayne tenaunts within the same maner haue vsed to haue landes or tenements to hold to them and to their heires in fee simple or in fee taile, or for terme of lyfe &c. at the will of the lorde, after the custome of the same maner, and suche tenaunts maye not alene the lande by deede, for the

the

the Lorde maye enter as in a thyng forfayte to hym. But if he wil alene his lande to another, hym behoueth after some custome to surrender the tenementes in some courte &c. into the Lordes handes to the vse of hym that shal haue the estate in suche fourme, or to such effect. Ad hanc curiam venit A. de B. & sursum reddidit in eadem curia, vnum mesuagium &c. in manus domini ad vsum. C. de A. & heredum suorum vel heredum de corpore suo exeunt. vel pro termino vite sue &c. Et super hoc venit predictus C. de A. & cepit de domino in eadem curia, mesuagium predictum &c. habendum et tenendum sibi et heredibus suis, vel sibi et heredibus de corpore suo exeuntibus, vel sibi, ad terminum vite sue, ad voluntatem domini secundum consuetudinem manerij faciend & reddendo inde reditus, debit & consuetudines inde prius debitas, & de iure consuetas, & dat domino de fine &c. Et fecit domino fidelitatem &c. That is to say A. of B. commeth vnto this court, and surrendreth in the same courte a mese &c. into the handes of the Lorde, to the vse of C. of A. and hys heires, or to the heires, issuyng of his bodye or for terme of lyfe &c. And vpon that commeth the forsayde C. of A. and taketh of the Lorde of the same court, the forsayde mese &c. to haue and to hold to him and to his heirs, & to him or to his heires issuyng of his body, or to hi for term of life at ỹ lordes will after custome of the manor, to doo & pelde

there-

therefore rents, dettes, seruices, and custome
thereof before due and accustomed &c. and g
ueth the Lorde for a fyne &c. and maketh fe
to the lorde his fealtie &c. And suche tenaun
been called tenauntes by Copy of court roll
for that they haue none other euidence co
cernyng theire tenementes, but the copies
the court rolles, and suche tenauntes shal n
implede nor bee impleded of their tenement
by the kings writ but if they will implede
ther for their tenemets they shal haue a pla
made in the court of the lorde in such fourm
or to such effect. A. de B. queritur vers C.
D. de placito terre, videlicet de vno mes
gio quadraginta acris terre quatuor acris p
ti &c. cum pertinentijs, &c. et facit protestac
pem sequi querelam istam in natura br
domini Regis assise mortis antecessoris
communem legem, vel breuis domini Re
assise none disseisine ad communem legem
That is to say A. of B. complaineth aga
first of D. of a plee of lande, that is for to s
of a mese, and xl. acres of lande, forze acr
medowe &c. with the appurtenances, and
keth protestacion to sue his plaint in na
of the kings writ of assise of the death of h
antecessour at the common lawe, or by writ
of our soueraigne lord y king of assise of no
disseisin at the common lawe, or in nature
some other writte &c. pledges and proces
G. And though that some such tenaunts h
inheritance after the custome and maner

they haue none estate but as the Lordes will after the course of the common lawe, for it is sayde, if the lord put them out, they haue none other remedye but to sue vnto the lorde by peticon. For if they had any other remedy, they should not be said tenantes at the Lordes will after the custome of the manner, but the lorde will not breake the custome that is reasonable in suche cases. But Bryan chiefe Justice saith, that his oppinion alwayes hath been and alwayes shalbee, if such a tenaunt by custome (payng his services) bee cast out by the lord he shal haue an accion of Trespas against him. 21. E. 4. And likewise was the oppinion of Vaudy chief Justice. Pich. 7. E. 4. for he sayth that the tenaunt by the custome is as well inherit to haue his land after the custome as well as he that hath franktenement by the common law.

Tenauntes by the yarde bee in suche nature as tenauntes by copy of courte roulle. But the cause for whiche they bee called tenauntes by the rodde or yarde is, for that whan they will surrender theire tenementes into the Lordes hande to the vse of another, they shall haue a litle yard or rodde by the custome and vse in theire hands, whych they shall deliuer into the steward or bayliffe, after the custome and vse of the Maner. And he that shal haue the lande, shall take the same land or the court, & his taking shalbe entred in the roule. And the Steward or the bailife, according to

C.i. the

the custome, shall deliuer vnto hym that ta-
keth the land, the same yarde or another yarde
in the name of seisin. And for this cause they
bee called tenauntes by the yarde. But they
haue none other euidence but copy of the court
rolle.

¶ And also in diuers lordshippes and ma-
nours there is suche custome, if such a tenant
that holdeth by the custome will alyene his
landes or tenementes hee maye surrender his
landes vnto the Bayliffe or to the Reeue, &
to two sad men of the same lordship, to the vse
of him that shall haue the lande, to haue in fee
simple, fee tayle, or for terme of life &c. and
that, shall they present at the next courte. And
than hee that shall haue the lande by copye of
court roulle, shall haue the same land after the
entent of the surrender. Also it is to weete,
that in diuers lordshippes and diuers manors
there bee made diuers customes, in suche case
as to take tenaunts & as to plede, and as tou-
ching other thinges and customes to be done,
& al that, that is not against reason maye well
be admitted and allowed. And such tenaunts
that hold after the custome of a seignoury, &
after ỹ custome of a Maner, though they haue
estate of inheritaunce after the custome of the
lordship or of the maner, yet because they haue
not any free hold by the course of the comon
lawe, they be called tenaunts by base tenure.

¶ And diuers diuersities there be betwene
a tenant at will which is in by the lesse of his

lesson

lessour by the course of the common lawe, and tenaũt after the custome and maner in ỹ fourme aforesayde. For tenaunt at will after the custome maye haue estate of enheritaunce as it is aforesayde at the Lordes will after the custome & vsage of the maner. But if a mã haue landes or tenements which be not within such manner or lordship where such custome hathe been vsed in the fourme aforesayde, and wyll let suche landes or tenementes to another, to haue and to holde to hym and to his heires at the will of his lessour these wordes, to the heires of the lessee bee voyde, for this is the cause if the lessee dye and hys heire entrethe, the lessour shall haue a good action of trespas agaynst him, but not so agaynst the heire of the tenaunt by the custome &c. in anye case for that the custome of the maner in some case maye helpe hym to barre his Lorde in any action of trespas.

¶ Also tenaunt by the custome in some places ought to repayre & sustain ỹ houses & the other tenant at will ought not. Also one by ỹ custome shal doo fealtie and the other not. And diuers other diuersities there be betwene them.

¶ Thus endeth the first booke.

Homage.

HOmage is the most honorable se
uice and most humble seruice of r
uerence that a frankt enaunt ma
doe to his Lord. For whan the t
naunt shall make homage to hi
Lord he shal descent & his hea
vncouered, & his Lord shal sit, and the tenan
shal kncle before him ō both his knees, & hol
his hands iointly together betwene the hand
of his Lord, and shal saye thus. I become you
man from this day forwarde of life and limm
and of earthly worship and vnto you shall
true and faithfull, and beare you faithe of th
tenementes that I claime to holde of you s
uing the faith that I owe vnto our soueraigne
Lord the king. And thā ỹ Lord so sitting th
kysse him.

But if an Abbot or a Priour or any other
man of religion shall make homage vnto hi
Lorde, hee shall not saye, I become you
man for that hee hath professed himself onely
to bee gods man. But hee shall thus, I do
you homage and vnto you shall bee trew and
faithfull, and beare you faith for the tenema
tes that I claime to hold of you. Sauing the
faithe that I owe vnto our soueraigne Lor
the kyng.

Also if a woman sole shall make ho
mage vnto her lorde, shee shall not saye I
become your woman, for that is not conue
nient for a woman to saye that shee shall be
come the woman to any but onely to her hus
band

bande when she is wedded. But she shall say I make vnto you homage, and to you shalbe true and faithfull and shall beare you fayth of the tenementes that I hold of you, sauing the fayth that I owe to our soueraygne Lorde the king.

But if a man haue seuerall tenancies which he holdeth of seuerall Lordes, that is to say, euery tenancy by homage. Then when he maketh homage vnto one of his Lordes, he shall say in the ende of his homage. Sauyng the fayth that I owe vnto the king and vnto my other Lordes.

¶ And note well that none make homage but suche as hath estate in fee simple or in fee tayle in his owne right or in an other mans ryght. For it is a grounde in the law, that he that hath estate but for terme of life, shal make none homage nor take none homage.

For if a woman haue landes or tenementes in fee simple or in fee tayle whych she holdeth of hir Lorde by homage and taketh an housbande and hath issue, then the housband in the life of the wyfe shal make homage, for that he hath tytle to haue the lande by the curtesye if he suruiue his wife. And also he holdeth in the ryght of his wyfe. But afore issue betwene them, the homage shalbe made in both theyr names. But if the wyfe decease before homage made by the housband in the wiues life, and the husband holdeth him selfe in as tenāt by the curtesy, he shall make no homage vnto

his Lord, for that he hath then none estate but for terme of life. More shalbe sayd of homage in the tenure of homage auncestrell.

Fealtie. Cap. 1.

FEaltie is as much to say as fidelitas in Latine, and when a franketenaunt shall make fealtie vnto the Lorde he shal holde his right hande vpon a booke and shall say thus.

Heare you this my Lord, that I vnto you shall be faithful and true, and beare you faith of the landes or tenements that I clayme to hold of you, and truely to you shall doe the customes and serupces that I ought to doe vnto you at termes assigned, as God me helpe and all his saintes, & then he kisseth the booke. But he shall not knele when he maketh his fealtie, nor shall make such humble reuerence as is afore said in homage. And great diuersity there is had between making of fealtie & of homage. For homage may not be made but to the Lorde himselfe. But the Stewarde of the Lordes court or the bailyffe may take fealtie for the Lord.

¶ Also tenaunt for terme of yle shall make fealtie, and yet he shal make none homage, and diuers other diuersities there be betweene homage and fealtie.

¶ Also a man maye see a good note. Anno 15. E. 3. where and howe a man and his wife made homage and fealtie in the cõmon banke which is wrytten in suche fourme. Nota

that John Lewkenor and Elizabeth his wife made homage vnto William Thorpe in thys manner. The one and the other held ioyntly theyr handes betweene the handes of William Thorpe, and the husbande sayde in thys wise. Wee vnto you make homage, and beare you fayth for the landes that we holde of A. your seruice in B and in C. and the other townes &c against all men, saueing the fayth that we owe vnto our soueraigne lorde the king and to his heyres, and to our other Lordes, and the one and the other kissed him. And after they made fealtie, and the one and the other held theyr handes togither vpon a booke, and the husbād sayde the wordes, and both kissed the booke. More shalbe sayde of fealtie in the tenure of Socage, and in the tenure of frank almoigne, and in the tenure of homage auncestrell.

¶ Escuage.

Escuage is called in latine, Scutagiū, that is to say seruice of shielde. And such a tenāt that holdeth his lande by escuage, holdeth by knightes seruice. And also it is cōmonly sayd, that some holde by a fee of knightes seruice, & some by the halfe fee of a knightes seruice. &c. And it is said ꝑ when the king maketh a voyage royal into Scotlād for to subdue ꝑ Scots he that holdeth by a fee of knyghtes seruyce, behoueth to be with the king by .xl. dayes well and conuenably arrayed for the warre. And

Likewise he that holdeth his lande by the halfe of a fee by knightes seruyce, ought to be wyth the king by xx dayes. And he that holdeth his lande by the fowrth part of a fee by knyghtes seruice, him behoueth to be with the king by x dayes. And so after the quantitie, he that hath more, to do more, and he that hath lesse, to do lesse. But it appeareth by the plees and argumentes made in a good plee vpon a wrytte of Detenue of an obligacio brought by one Henry Gray. In. 7. E. 3. that it nedeth not to him that holdeth by escuage to goe him selfe, if he wil finde an hable person for the warre conuenably arrayed for the warre to goe wyth the king, and that semeth good reason. For it may be that he that holdeth by such seruice is sicke in such wise that he may not goe nor ride.

And also an Abbot or any other man of religion, or a woman sole that holdeth by such seruice, ought not in such case to goe in proper person. And sir William Herle that time chiefe iustice of the common place, sayde in the sayde plee, that Escuage shall not be graunted but where the king himselfe goeth in proper person. And so it abode in iudgement in the same plee if these xl. dayes shall be accompted from the day of the muster of the kinges hoste made by the commons and by the kings commaundement: Or els from the day that the king first entreth into Scotland &c. therfore inquire of this matter.

¶ And after such voyage into Scotlande

it is commonly sayde, that by the auctoritie of parliament, the escuage shalbe sette and put in certaine, that is for to say, a certaine summe of money how much euery one that holdeth by a whole fee of knightes seruice whych was not in his owne proper person, nor none other for hym with the king, shall paye vnto the Lorde of whom he holdeth his lande by escuage. As, put case that it was ordeyned by auctoritie of parliament, ꝑ euery one ꝑ holdeth by a whole fee by knight seruice which was not with the king shall pay to his Lord. xl. s. Then he that holdeth by the halfe of a fee by knyghtes seruice, shall pay vnto his Lorde but. xx. s. and so who more, more: & who lesse, lesse. And some tenaunts holde, that if escuage renne by auctoritie of parliamente to any summe of money, that they shal pay but the halfe of that summe & some but the fourth part of that sume. But because the escuage that they shall paye is not certaine, for that it is at no certayne what the parliament will assesse the escuage, they holde by knightes seruice. But otherwyse it is of escuage certayne, of which shalbe spoken of in the tenure of socage.

And if a man speake generally of Escuage, it shall bee vnderstande by the common speache of Escuage not certayne, whych is knightes seruice. And such Escuage draweth vnto hym homage, and homage draweth vnto hym fealtie, for fealtie is incident to euerye manner of seruyce, but to the tenure of

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franke almoygne as it shalbe sayde hereafter in tenure of franke almoygne. So as he that holdeth by escuage, holdeth by homage, fealtie and escuage.

¶ And it is to bee vnderstande, that when escuage is so sessed by auctoritie of parliament, euery Lorde of whome the lande is holden by escuage, shall haue the escuage so sessed by the parliamente, bicause it is vnderstande by the lawe that at the beginning, suche tenementes were giuen by the Lordes to hold by such seruices to defende their Lordes as well as the kyng, and to set in quiet and rest their Lordes and the kynge of Scottes aforesayde. And in that such tenements came firste of the Lords, it is reason that they haue the escuage of their tenements.

¶ And the Lords in such case may distreyne for the escuage so assessed, or they may haue the kinges writtes directe vnto the Shiriffes of the shyres to leuye such escuage for them as it appeareth by the Register. Fol. 88.

¶ But of suche tenauntes that holde of the king by escuage which were not with ỹ king in Scotland, the kyng him selfe shall haue the escuage.

¶ Item in suche case aforesayde, where the king maketh a voyage royall into Scotland and the escuage is assessed by parliament, if the Lorde destreyne hys tenaunt that holdeth of him by seruice of a whole knightes fee, for the escuage so assessed &c. And the tenant pleded

and will auerre that he was with the kyng in Scotland. &c. by xl dayes, and the Lorde wyll auerre the contrary, it is sayde that it shall be tried by the certification of the constable of the kings host, in writing vnder his seale whych shalbe sent to the Justices.

¶ Homage, fealtie, and eſcuage.

TEnure by homage, fealty, and eſcuage, is to holde by knightes ſeruice, and it draweth vnto him warde, mariage, & reliefe. For when such a tenant dieth his heire male being within age of. xxi. yeare, the Lorde shal haue ỹ land holden of him vntil the age of the heyre of. xxi. yeare, whych is called plaine or full age, for that such an heire by the vnderstanding of the law, is not able to doe knightes ſeruice before the age of. xxi. yeare.

¶ And also if suche an heire be not maryed at the tyme of the death of hys auncestor, then the Lorde shall haue the warde and maryage of hym. But if such a tenaunt dye hys heyre female beinge of the age of fourtene yeare or more, then the Lorde shal not haue the warde neyther of the lande nor of the bodye, for that a woman of suche age may haue an husbande hable to doe knightes ſeruice. But if suche an heyre female be within the age of fourtene yeare and not maryed at the tyme of the death of hir auncestor, then the Lorde shall haue the

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warde of the lande holden of hym tyll the age of ſuch an heyre female of .xvi. yeare. For that it is giuen by the ſtatute of Weſtmynſter the fyrſt Cap. 12. that by two yeare next folowing the ſayde .xiij. yeare, the Lorde may tender a conuenient mariage wythout diſperagyng of ſuch an heyre female. And if the Lorde do not tender hir ſuch mariage within the ſayde two yeare, then ſhe at the ende of the ſayd two yere may enter and put out the Lorde. But if ſuch an heyre female be maried wythin the age of xiij. yeare in the lyfe of the aunceſter, and the aunceſter dye, ſhee beinge wythin the age of xiij. yeare, the Lorde ſhal haue but the warde of the lande till an ende of .xiij. yeare of age of ſuche an heyre female. And then hir huſbande and ſhee may enter into the lande and put out the Lorde, for this is out of the caſe of the ſtatute. In ſo much that the Lord cannot tender mariage to hir that is maried &c. For before the ſaid eſtatute of weſtminſter the firſt ſuche iſſue female that was within age of .xiij. yere at the tyme of the death of his aunceſter, and after that ſhee had accõpliſhed the age of .xiij. yeare without any tender of mariage to hir by the Lorde, ſuche an heyre female then myght enter into the lande and put out the Lorde as it appeareth by the reherſall & by the wordes of the ſame eſtatute. So that the ſayd ſtatute was made in ſuche caſe all for the auauntage of the Lord as it ſeemeth. But yet that at all tymes is vnderſtande by the wordes of the

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ſame eſtatute, that the Lorde ſhal not haue the two yere after the .xiiij. yere as it is afore-ſayde.

¶ And note well that the full age of heire male and female after the common ſpeache, is ſayde the age of .xxi. And the age of diſcretion is ſayde the age of .xiiij. yeres, for a childe at ſuche age whiche is wedded wythin ſuche age to a woman may agree to the mariage or diſagree.

¶ And if the wardeyne in chiualrye mary once his warde within the age of .xiiij. yere, & after the age of .xiiij. years he diſagreeth to the maryage, It is ſayde by ſome folke that the childe is not holden by the lawe to bee maried another time by his wardeyne, for that the wardeyn had once the maryage of hym, and therefore hee was out of his ward as cõcerning the warde of his body. And when he had once the mariage of him and therfore was out of his warde hee ſhall no more haue the maryage of hym. In the ſame maner it is if the wardeyne mary him and the wife dye the childe being wythin age of .xiiij. yeare or .xxi. yeares. And that the childe may diſagree to ſuch mariage whan he come to thage of .xxiiij. yeare it is proued by the woords of the ſtatut of Marton cap. 6. that ſayeth thus. De dominis qui maritauerint illos quos habent in cuſtodia ſua villanis & aliis ſicut burgenſis vbi diſparagẽtur, ſi tales homines fuerint infra .14. annos & talis etatis qui matrimonio cõſentire

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non poſſint, tũc ſi parentes illius conquerãtur dominus ille ammittat cuſtodiam illam vſque ad etatem heredis. Et omne commodũ quod inde receptum fuerit conuertatur in commodum heredis infra etatem exiſtentis ſecundum diſpoſitionem parentum propter dedecus ei impoſitum. Si autem fuerit .xliij. annorum & vltra qua conſentire poterit, & tali maritagio conſenſerit, nulla ſequatur pena. And ſo it is prouided by the ſame ſtatut that no dyſperage ſhall bee but where that he that hath the ward marieth him within the age of .xliij. yeare

¶ Alſo it hath beene a queſtion howe theſe woordes ſhould bee vnderſtande. Si parentes conquerantur &c. And it ſeemeth vnto ſome that conſiderynge the ſtatute of Magna carta Cap. 6. that wylleth that heredes maritentur abſq; deſperagatione &c. vpon which this ſame ſtatut of Marton vpon this poynt is grounded as it ſeemeth, and in ſo muche that it ſhall neuer ſeene that any action was brought by the ſtatute of Merton for ſuche deſperagyne againſt the wardeyne, and if anye action may be taken vpon ſuch matter, it ſhalbe taken by common preſumpcion before this time, or at ſome time to be put in vre, that theſe woordes ſhalbee vnderſtand in ſuch manner. Si parentes conquerantur .i. Si parentes inter ſe lamentantur, which is as muche to ſaye that if the cofins of ſuche a childe haue cauſe to make lamentacion and complaynt among them for the ſhame doone to theire cofin ſo dyſperage

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whiche is in a maner a ſhame to them al, than may the next coſin to whom the heritage may not diſcend, enter and put oute the wardeyne in chiualrye. And if he wil not, another coſyn of the chyldes maye doo it, and hee to take the iſſues and profites vnto the vſe of the chylde, and of that yelde the childe accompt whan he commeth vnto his ful age. Or eis the childe within age maye enter himſelf and put out the wardeyn &c. Sed quere de hoc.

¶ Alſo there is many other dyuers diſperagyngs, whiche be not ſpecified in the ſame eſtatute As if the heire that is in warde be maried vnto one that hath but one foote, or one hand, or is deformed or lame, or hauyng an horrible diſeaſe, or eis a great and continuall infirmitie, or if the heire male bee maried to a woman paſſed chylde bearyng. And manyother cauſes of diſperagyng there bee, but inquire for them, for it is good matter to learne. And of heires males that bee within age of xxi. yeare, after the death of their anceſtors vnmaried. In ſuch caſe the lord ſhal haue the mariage of ſuche an heire, and haue ſpace & tyme to tender to him conuenable mariage without diſperagyng wythin the ſame tyme of xxi. yeare.

¶ And it is to wytte, that the heire in ſuche caſe maye chooſe yf hee wyll be maryed or noe. But yf the Lorde whyche is called wardeyne in Chiualrye, tender a conuenable maryage to ſuche an heyre wyth-

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in the age of xxi. yeare wythout diſperaging and the heire refuſe, and marye not hymſelfe wythin the ſame age: Then the layd warden ſhall haue the value of the marpage of ſuche an heire. But if ſuch an heire male mary hym ſelfe within the age of xxi. yeare, againſt the will of the wardeme in chiualrye: Than ſhall the wardeyne haue double the value of the mariage by the force of the eſtatut of Merton aforeſayd, as in the ſame ſtatut is more fully compyled.

¶ Alſo diuers tenaunts hold of their lorde by knights ſeruice, and yet they holde not by eſcuage, nor pay no eſcuage as they that holde their landes by caſtle warde, that is to ſay, to keepe a tower of a caſtle, or a gayle or ſome other place by reaſonable warning whan the lordes heare tell that enemies will come, or be come into England. And in many other caſes a man may hold by knightes ſeruice, & yet he holdeth not by eſcuage, nor payeth no eſcuage, as ſhalbe ſayde in the tenure of Grand ſerieauntie. But in all caſes where a man holdeth by knightes ſeruices, ſuche ſeruice drawyeth to the Lorde warde and mariage. And if a tenaunt that holdeth of his lorde by ſeruice of an whole knights fee, dye, his heire being at full age of xxi. yere, his heire ſhal pay vnto his lord C.s for a reliefe, & hee that holdeth by the half fee, ſhal pay L.s.

Alſo if a man hold his lande of hys lorde by the ſeruice of two knightes fees, than the

heire

heyre at ful age at the tyme of the death of his auncestor, shall pay to his lorde tenne pounde for relefe.

¶ Also if there bee graundfather, mother, & sonne, and the mother dyeth liuing the father of the sonne, and after the graundfather which held his land by knightes seruice dyeth seised, and the land descendeth to the sonne of ỹ mother, as heire to the graundfather whiche is within age. In such case the lord shall haue ỹ ward of the land but not the ward of the heir. For that none shalbee in ward of his body lyuing his father, because the father during his lyfe, shall haue the mariage of his heire apparant, & not the lorde. Otherwise it is if ỹ father bee dead liuing the mother, where ỹ land holden in chiualrie, descendeth to the sonne on the fathers syde &c.

¶ Also if a man bee seased of land whiche is holden by knights seruyce, and maketh feoffement in fee to his vse, and dyed seised to the vse of his heire within age, & no will by hym declared, the lord shall haue a writte of right, of the body and the land. Likewise if ỹ tenant had dyed seised of the demesne. And if the heire bee of full age at the death of his ancestor. In such a case hee shall pay relief. Lykewise if hee had been seised of the demesne, and that is by the statute of an. 4. H. 7. ca. 7.

¶ Also there is a warde in right in chiualry, & warden in deede in chiualrie. Warden in right in chiualry, is where the lorde because of his

lordship is seised of the ward of the land, & the heire yt sueth. wardein in deede in chiualry is where the lorde in suche case after his seisin graunteth by deede or without deed the ward of the land or of the heire, or of bothe, to another man by force of which graunt, the grauntee is in possession, than is the graunte called wardein in deede &c.

¶ Tenure in socage. Cap. 5.

TEnure in socage, is where the tenant holdeth of his lorde his tenaunce by certein seruice, for all maner of seruice so that the seruice bee not knights seruice. As where a man holdeth his land of his lorde by fealtie and certeine rent for all maner of seruice, or els where a man holdeth his land by homage, fealtie, and certeine rent for all maner of seruices, for homage by himself maketh not knightes seruice.

Also a man may hold of his lord only by fealtie, and suche tenure is tenure in socage, for euery tenure that is not tenure in chiualry, is tenure in socage. And it is saide that the cause wherefore such tenure is saide, and hath the name of tenure in socage, is thus. Quia hoc socagium idē est, q̄ tuit̄ soce. Et hec soca soce in est q̄ caruca. s. one lok or one plough land. In old time before ỹ limitatiō of time of mind

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great parte of the tenaunts that held of theire Lordes by ſocage ought to come with theire plowes euery of the ſaid tenauntes by certain dayes in the yere, to eare and ſowe the Lordes landes of his owne graines. And for that ſuche woorkes were doone for the kyndlode and ſuſtenaunce of their lordes, they were acquited againſt theire lorde of all maner of ſeruices. And for this that ſuche ſeruyce was doone with theire plowes, ſuche tenure was called tenure in ſocage. And after that ſuche ſeruyce were chaunged in diuers other maner ſeruice by conſent of the tenauntes, and by the deſyre of theire lordes, that is to ſaye into a yerely rent &c. But yet the name of Socage abydeth, and in dyuers places tenauntes yet doo ſuch ſeruice with their plowes vnto their Lordes, ſo that all maner of ſeruyces that bee not tenures by knightes ſeruice bee called tenures in ſocage.

Alſo if a man holde of his lorde by eſcuage certaine. That is to ſaye in ſuch fourme, that when eſcuage rennelh and is aſſeſſed by the Parliament to a more ſumme or to a leſſe ſumme that the tenaunt ſhall paye to the Lorde but halfe a marke for eſcuage, and neither more ne leſſe, to how great ſumme or little ſumme that the eſcuage runneth, in this caſe, becauſe the eſcuage is in certaine before that anye eſcuage is aſſeſſed &c. Suche tenure is tenure in Socage & not knightes ſeruice. But where the

somme that the tenant shal pay for escuage, is not certeine, that is to saye, where it maye bee that the somme that the tenaunt shall pay for escuage may bee at one time more and another lesse, after that it is assessed &c. thā such tenure is tenure by knights seruice.

¶ Also if a man hold his land for to paye certaine rent to his Lorde for castle warde, suche tenure is tenure in socage. But where the tenaunts self ought by him or by anye other to make castell ward, such is tenure by knights seruice.

¶ Also in all cases where the tenaunt holdeth of his lorde to paye to him anye certaine rent, that rent is called rent seruice.

¶ Also in such tenures in socage if the tenant haue issue and dye, his issue being within the age of. 14. yeres, then the next frend of ỹ heire to whome the heritage may not discend shall haue the warde of the lande, and of the heyre vnto the age of the heir of. 14. yeres, and such wardein is called wardeine in socage. For if lande discend to the heire by the fathers syde, then the mother, or some other nygh cosyn of the mother syde shal haue the warde, And if land discend to the heire by the mothers syde then the father or the next frend of the fathers syde shal haue the warde of suche lands or tenementes. And when the heire commeth to the age of. 14. yeres complete, hee may enter & put out his wardeine in Socage, and occupy the land him selfe if hee wil. And such wardein in

socage

socage shall take no issues or profits of suche lands or tenements to his owne vse, but only to the vse and profite of the heire, and of that shal yelde accompt when it pleaseth the heire after that the heyre hath accomplyshed the age of.14.yeres. But such a wardein vppon suche accompt shall haue allowaunce of al his reasonable costes and expences of all thinges. And if such a wardein mary the heire within age of.xiiii.yeare, hee shall make accompt to ỹ heire or to his executours of the value of the mariage, though hee tooke nothing for the value of the mariage, for that it shall bee erected hys own folye, that hee would mary him without taking the value of the mariage without hee mary him to such a mariage that is worth in value as much as the mariage of the heire &c. Also if anye other man that is not a nyghe frend &c. occuppe the landes and tenementes of the heire as wardeyne in socage hee shalbee compelled to yeld accompt vnto the heire, as well as his next frende. For it is no plee for him in a writte of accompt to saye that hee ys not his nigh frend &c. But hee shal aunswere whether hee occuppeth the lands or tenemēts as wardein in socage or not. But enquire if after that the heire haue accomplished the age of.14.yere, and the wardeine in socage cōtinually occupieth the land til ỹ heire commeth to full age of xxi.yeres. If the heire at hys full age shall haue an accion of accompt agaynste the wardein of the tyme that hee hath occupi-

ed after the said fowerteene yeres, as againste his wardeyn in socage, or againste him as against his bailife.

¶ Also if wardeyne in chiualrye make hys executours, and dye, the heire beeing within age &c. The executours shall haue the warde, duryng the nonage. But if the wardeine in Socage make executoures and dye, the heire beeing within the age of fowerteene yeares hys executours shall not haue the warde, but an other nighe frende to whome the heritage may not discend, shall haue the warde. And the cause of diuersities is, for that the warden in chiualrye hath the warde to hys proper vse, and the wardeine in Socage hath not the warde to his owne vse, but to the vse of the heire. And in suche case, where the warden in Socage dyeth before any suche accompt made by him, the heire is of that without remedye, for that no writte of accompt lyeth against the executours, but only for the king.

Also the lorde of whome the land is holden in Socage after the deathe of hys tenaunt, shall haue relefe in suche fourme. If the tenaunt holde by fealtie, and certayne rente to paye yearely &c. If the termes or payment bee to paye by twoo termes of the yere, or by fower termes of the yeare, the Lorde shall haue of the heire of hys tenaunte, as muche as the rent amounteth that her ancestor owe paye by yeare. As if the tenaunt holde of the

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lorde by fealtie, and .x. shillinges of rent, payable at certeine tearmes of the yeare, then the heire shal pay to the lorde tenne shillinges for relefe aboue these tenne shillings that he shal pay for the rent. Loobe more in the statute of anno .xix. Henry the seuenth. Capitulo .xv.

And in suche case after the deathe of the tenaunt suche relefe is due to the lorde incontinent of what age so euer the heire bee, for that suche a lorde maye not haue the warde of the bedy nor the lande of the heire. And the lorde in suche case ought not to abyde the payment of his relefe after the tearmes and dayes of payment of the rent, but hee ought to haue his relefe incontinent. And therefore hee maye incontinent distreyne after the death of hys tenaunt for the relefe. In the same maner it is, where a tenaunt holdeth of his Lord by fealtie, and by a pound of cummyn, or a pound of pepper by the yere, and the tenaunt dye, ỹ lord shall haue for his relief a pound of cummin or a pound of pepper.

In the same maner it is, where the tenaunt holdeth to pay by yere a certein number of capons or hennes, or a paire of gloues, or certein bushels of wheat, & suche other maner thyng. But in some case the lorde ought to abyde to distrayne for his relief till a certein time.

As if the tenaunt holde of his lorde by a rose or by a bushell of roses to paye at the feaste of S. Johan Baptist. If suche a tenaunt dye in Winter, then the Lorde maye not distrayn for

his relefe &c. vntill the time that the roſes by the courſe of the yeare may haue theire growynges &c. Et ſic de ſimilibus. Alſo if any peraventure will aſke why a man may not hold of his lord by fealty onely for all maner of ſeruices, in ſo much when the tenaunt ſhal make his fealtie, hee ſhal ſwere to his lord that hee ſhall doo all ſeruices due, and when hee hath made fealtie in ſuche caſe, there is none other ſeruice due. To this it may bee ſaide, ℣ when the tenaunt holdeth his land of hys lord, it behoueth that hee ought to doe to his lord, ſome maner of ſeruice, for if the tenaunt nor hys heires ought to doo no maner of ſeruyce to his lord nor to his heire, then by long tyme continued it ſhoolde bee out of remembraunce of whome the land was holden, of the lorde or of his heire or not, and then more ofter and more ſooner will men ſay that the lande is not holden of the lorde nor of his heires then otherwiſe, and vppon this the lord ſhall loſe hys eſchete of the land, or per caſe other forfaiture or profit that hee might haue of the land. So it is reaſon that the lord & his heires haue ſome ſeruice doon vnto him for a proofe and a witnes that the lande is holden in frank almoigne as ſhalbee ſaid in frank almoigne, and becauſe that the lord will not at the beeginning of the tenure haue anye other ſeruices but fealtye, it is reaſon that a man may hold of hys lord only by fealtye, and when hee hath made his fealtie, hee hath doone all his ſeruice.

Alſo

¶ Also if a man let to an other for terme of lyfe certeine landes or tenementes wythout speaking of any thing to yeld to the lessours, yet hee shall doo to the lessour fealtie, for that hee holdeth of him. Also if a lease bee made to a man for terme of yeres, it is said ỹ lessee shal doo to ỹ lessour fealtie, for ỹ he holdeth of him. And this is prooued well by the woordes in a writte of waste when the lessour hath caused to bring a writte of waste againste him the whiche write shall saye that the lessee holdeth the tenements of the lessour for term of yeres. So the write prooueth a nature betweene thẽ &c. but hee that is tenant at will after ỹ coutse of the common law, shall not make fealtie, because hee hath no maner of sure estate. But otherwise it is of tenaunt after the custome of ỹ maner, because that hee is bound to doo fealtie to his lorde for two causes, one is because of custome, the other is because that he take his estate in such fourme to doo fealtie.

¶ Frankalmoigne. Ca. 6.

¶ Enaunt in franke almoigne, is where an abbot or prior, or an other man of religiõ, or of holy church, holdeth of his lord in Frankalmoigne, that is to say in latine. In liberam elemosinam, that is to say, in free almes. And suche tenure beganne firste in olde tyme when a manne in olde tyme was seysed of landes or tenementes in hys demesne, as of fee,

fee, and of the same lande enfeoffed an abbot & his couent, or priour and his couent, to haue & to hold of them and their successours in pure & perpetuall almes, or in franke almoigne, or by suche woordes to holde of ỳ grantour or of his successour and his heires in free almes. In suche case the tenementes were holden in franke almoigne, and in the same maner it is where the landes or tenementes were graunted in olde tyme to a Deane & Chapter & to their successours, or to a parson of a churche & to his successours, or to any other man of holy church & to his successours in free almes if hee had no patrie to take suche grantes or feoffementes as such as hold in free almes, be bound of right afore god to doo orisons, prayers & masses, & other diuine seruices for the soules of ỳ grantours or feoffoures, or for the soules of their heires which bee dead, and for the prosperous & good life of them that bee aliue.

¶ And for this, they doe at no tyme no maner of fealty vnto their lordes, for that such diuine seruice is better for them before god, than any dooing of fealtie, and also these woordes free almes, or franke almoigne, exclude the lorde to haue anye woridly or temporall seruice, but only to haue diuine and spirituall seruice to bee doon for him &c. And if suche that hold their tenementes in free almes, or franke almoigne will not, or faile to doo suche diuine seruice as it is sayde, the lorde maye not distreine them for the seruices vndoon &c. be-

cause

ceuse it is not set in certein, what seruice they ought to doo: but the Lorde may of that complaine to theire ordinarye, praying hym that hee will sette punishement and correction of that. And also to prouyde and see that suche negligence bee no more doon, and the ordinary of right ought to doo that &c.

¶ But where an Abbot or a priour holdeth of his lorde by certeine diuine seruice in certayn to bee doone, as for to sing a masse euery frydaye in the weeke for the soules &c. or euerye yere at such a daye to sing Placebo & Dirige &c. or to fynd a chaplein to sing masse &c. or to distribute in almes to an hundred poore men an hundred pence at such a day, in suche case if suche diuine seruice bee not doon the lord may distrayn &c. for that this diuine seruice is in certaine by theire tenure what the abbot or ꝑ priour ought to doo. And in suche case the lorde shall haue the fealty &c. as it seemeth.

And suche tenure is not saide tenure in free almes, but it is sayde tenure by diuine seruice, for in tenure in free almes, or franke almoigne, no mencion is made of anye maner certeine seruyce, for none maye holde in free almes or franke almoigne if there bee expressed anye maner certeine seruice that hee ought to doo.

¶ And if it bee demaunded if the tenaunt in frankmariage shall doo fealtie to the donoure or to his heires beefore the fowerth degree be passed &c. It seemeth that yea, for he is not

like

lyke as to this intent to a tenaunt in free almes or frank almoigne for that the tenaunt in free almes shal doo, because of his tenure diuine seruice for his lord as it is afforesayd, and that hee is charged to doo by the lawe of holy churche, and for that hee is excused and discharged of fealty. But tenaunt in frank mariage dooth not by his tenure such seruice.

And if hee doo not to his lord fealtie, then hee dooth not to his lorde anye maner of seruice neither spirituall nor temporall, which shoold bee an inconuenience and againste reason that a man shoold haue estate of inheritaunce of another, and yet the lorde shall haue no maner of seruice of him as it seemeth, and so it seemeth that hee shal doo fealtie to his lorde before the fowerth degree bee past &c. And when he hath doon fealty, hee hath done all his seruice. And if an Abbot hold of his lorde in free almes, the Abbot and his couent vnder their comon seale alien the same lande to a seculer man in fee simple, in this case the seculer man shall doo fealtie to the lord for that he may not hold of his lord in free almes, for if the lorde ought not to haue of him fealtie, then hee shall haue of him no maner of seruice whiche shoold be an inconuenience where hee is Lorde, and the tenementes is holden of him.

¶ Also if a man grant at this day to an abbot or to a priour, landes or tenementes in free almes or frank almoygne, these woordes free almes or franke almoigne bee voide, for that

it is

it is ordained by the statute whiche is called Quia emptores terrarum which statute was made anno. 18. regis. E. primi. That no man may alyen or graunt landes and tenementes in fee simple to holde him selfe, so that if a mā seised of certein landes or tenementes whiche he holdeth of his lorde by knightes seruice & at this day hee graunteth the same land to an Abbot &c. in free almes or franke almoigne, ỹ Abbot shall holde immediatlye the same tenements by knights seruice of the Lord of hys grauntour because of the same estatute so that no man may holde in free almes or in franke almoigne, but if it bee by title or prescription, or by force of a grant made to some of his predecessours before the same statute. But the king maye geeue landes or tenementes in fee simple to hold in free almes or frāk almoigne or by other seruice for hee is out of the case of the statute, and note well that no man maye holde landes or tenementes in free almes, but of the grauntour or his heires, and that for the priuity of the gifte, and therefore it is said that if there bee lorde mesne and tenant, & the tenaunt is an abbot that holdeth of hys mesne in frank almoigne, if the mesne dye without heire then the menaltye shall come by eschete to the said Lorde aboue, & the abbot then shall hold of him immediatly only by fealtie, & shall doe him fealtie, for that hee maye not holde of him in frank almoigne &c.

¶ And note well, where that suche a man of reli-

religion holdeth his lands of his Lorde in fra
almes &c. his lord is bound by the lawe to ac
quite him of euery maner of seruice that an
lord aboue him will demaunde or aske of h
same tenants. And if hee acquite him not b
distreth him to bee distrained &c. then he sha
haue against his lorde a writ of mesne, & re
couer his domages and costes of his suite.

¶ Homage auncestrel. Cap. 7.

TEnure by homage auncestrell is, where
tenaunt holdeth his land of his lord by ho
mage, and the same tenaunt and his auncest
whose heire hee is hath hold of the same lan
of the saide lorde and of his auncestors, whe
heire the lord is from time out of mynd by ho
mage, & haue doon homage vnto him which
called homage auncestrel because of the con
nuaunce whiche hath been by title of prescri
cion in the tenauncy, in the blood of the ten
& also in the lordshyp in the blood of the Lo
And in such seruice by homage auncestrell d
weth to hym warranty, if the Lord that is
liue hath receiued homage of such tenaunt, h
ought to warrant his tenant when he is im
pleded of the landes holden of him by homag
auncestrell. And also suche seruice by homag
auncestrell dooweth to him acquitaunce, th
is to saye, the Lorde ought to acquite hys te
naunt against all other lordes aboue hym of t
uerye maner of seruice. And it is saide that
such tenaunt bee impleded by a Pzecipe quo
redde

reddat &c. and hee voucheth his lorde to warranty, which cometh in by processe and asketh of the tenaunt what hee hath to bynd hym to warranty, and hee sheweth how hee and hys auncesters whose heire hee is, haue holden the lande of the vouchee and of his auncesters, whose heire hee is by homage fro tyme out of mynd, if the lord whiche is vouched receaueth none homage of the tenaunt, nor of any of his auncesters, the lorde then if hee will, may disclayme in the lordship, and so put out hys tenaunt of his warranty. But if the lord which is vouched hath receiued homage of the tenaūt or of any of his auncesters, then maye hee not disclaime, but hee is bound by the law to warrant the tenaunt, and than if the tenaunt leese the land in defaut of the voucher, hee shal recouer in value against the voucher &c. ỹ lands or tenements ỹ the vouchee had at the tyme of ỹ vouche or any tyme after. And it is to wyte that in euery case wher the lord may disclaim in his lordship by the law in court of record, and of that will disclaime his seignoury is extinct, & the tenaunt shal hold of his lorde nexte aboue ỹ lord whiche so disclaimeth. But if an abbot or a priour bee vouched by force of homage auncestrel &c. though hee hath neuer take homage &c. yet hee cannot disclayme in thys case nor in none other case, for they cannot deuest that thing in fee whych hath been vested in their house. Pasche. 7. E. quarti.

Also

¶ Also if a man that holdeth his lande by homage auncestrel alyeneth his lande to an other in fee, ỹ alyenee shall doo homage to his lord But hee holdeth not of his lorde by homage auncestrell for that the tenauncy was not continued in the hold of the auncestours of the alien, nor the alien shall neuer haue the warranty of his land of his lorde, for that the continuaunce of the tenauncy in the tenaunt & his blood by the alienation is discontinued, so see that the tenaunt that holdeth his land by homage auncestrell of the lorde, and such a tenaunt alieneth in fee, though that he take estate of the alyen agayne in fee, hee holdeth the lande by homage, but not by homage auncestrell.

¶ Also it is saide that if a man hold his land of his lord by homage and fealtie, and hee hath made homage and fealtie vnto his lorde, & the lord hath issue a sonne, and dyeth, and ỹ lordship discendeth to his sonne, In this case the tenaunt which did homage to the father, shall not doo homage to the sonne, for that when tenaunt hath made once homage to hys lord hee is excused for terme of hys life to make homage to any other heire of the lorde. But yet hee shall doo fealtie to the sonne and heyre of hys lorde thoughe that hee made fealtie to his father.

¶ Also if the lorde after the homage to him made by his tenaunt graunt the seruyce of his tenaunt by deede vnto an other in fee, and the

tenaunt

tenaunt attorneth &c. the tenaunt shall not bee cõpelled to doo homage but he shal doo fealtye though he did fealtie beefore to the graunttour, for fealtie is incidẽt to euery attornement whẽ the lord ship is graunted. But if a man be seysed of a manour, and another man holdeth hys land of him as of the manour aforesayd by homage, the which hath done homage to his lord whiche is seised of the manour if after that a straũger bring a Precipe quod reddat agaynst the Lord of the manour and recouereth ỹ manour against him and suethe execucion &c. in this case the tenaunt shal once agayne doo homage to hym that recouereth he the manour for that the state of him whithe receiued homage before is defeted by the recouery. And it shall not lye in the mouth of the tenaunt to falsifye or defete the recouerye which was against his Lord, & so see the dyuersitie in this case where a man cõmeth to his lordship by recouery, and where he commeth by discent or graunt of the seignorye.

¶ And if a man tenant which ought by his tenure to doo homage to his Lorde come to hys Lord and say to him, sir I ow to do vnto you homage for the tenements that I hold of you and I am redy to do you homage for the same tenements for the which I pray you that ye will now receiue it and if the Lord than refuse to receiue it, than after suche refuse the Lorde may not dystraine the tenaunt for the homage before that the Lord require the tenant to doo

homage, and the tenaunt refuſe to doo it.

¶ Alſo, a man may hold his land by homage auncestrel and by eſcuage or by other knights ſeruice, as wel as he might hold hys lande by homage auncestrel in Socage.

¶ Graund ſergeauntie. Cap. 8.

TEnure by graunde ſergeauntie is, where a man holdeth his lands or tenements of our ſoueraigne lord the king, by the ſeruice which he ought to doo in his owne proper perſon, as to beare the kynges banner or his ſpeare, or to lead his hoſte, or to be his marſhall, or to bee his ſweord before him at his coronacion, or to be his ſewer at his coronacion, or hys kerue, or butler, or to bee one of his chamberlaynes of his reſceit of his Eſchequer, or to doo ſuch ſeruices &c, and the cauſe wherefore ſuch ſeruice is called graund ſergeauntie, is for that it is more honorable, and woorſhipfull, & digne, than is the ſeruice of the tenure by eſcuage, for he that holdeth by eſcuage, is not ymitted by his tenure to doo any more eſpecial ſeruice than any other that holdeth by eſcuage ought to do. But he that holdeth by Graund ſergeauntie, ought to do eſpecial ſeruice to ỹ king. But he ỹ holdeth by eſcuage, ought not to doo.

¶ Alſo, if the tenaunt whiche holdeth by eſcuage dye, hys heire beeing at full age, if he hyld by a knyghtes fee, the heire ſhall pay but an. C.s. for his relieſe, as it is ordeined by ſtatut of Magna charta Cap. 2. but hee ỹ holdeth

deth of the kyng by graunde sergeauntye and dieth his heire being of full age, shall pay vnto the kyng for his relefe the value of hys landes or tenementes by yeare, beside the charges and repryses which he holdeth of the kyng by graunde sergeaunty: And it is to wete that sergeauntie in latin is seruicium, and of magna seriãtia is magnum seruicium, that is to say a great seruice.

¶Also those whiche hold by escuage ought to doo their seruice out of the realme, but they that holde by graund sergeauntye for the most part oughte to doo their seruice wythein the realme.

¶Also it is said that in the Marches of Scotlande some holde of the kyng by cornage that is to saye to blowe an horne for to warne the men of the countrey. &c. whan they here that the Scottes or other enemies will come or enter into England &c. whiche seruice is graũd sergeauntie &c. but if any tenant holde of anye other lord than of the kyng by suche seruice of cornage, that is not graund sergeauntye, but it is knightes seruice, & draweth to him ward mariage, & relefe, for none may hold by graũd sergeauntie but of the kyng onely.

¶Also a man maye see in the xi. yeare of Hẽry the fourth that Cokayn than beeing chiefe barron of theschequer came into the common place bryngyng with hym a coppye of a record in these woordes. Talis tenet tantam terrã de domino rege per seriantiam ad inueniendum

bntum hominem ad guerram infra quatuor ma
ria ꝛc. That is to ſay, ſuche a man holdeth ſo
much lande of our ſoueraygne Lorde the kyng
by ſergeantie to warre within the foure ſeas,
and he demaunded whether it was graūd ſer
geauntie or petite ſergeaunty, and Hanke thā
ſayde that it was graund ſergeauntie, for that
it was ſeruice to be done by the body of a man
and if that he may not fynde a man to doo the
ſeruice for him he muſt doo it hym ſelfe. To
whom the other iuſtices aſſented. Cokeyn thā
ſayde, the tenaunt in this caſe ſhal pay relefe
to the value of the land by yeare, to the which
was none aunſwere, and note that al they that
holde of the kyng by graund ſergeauntie, hold
of the kyng by knightes ſeruice, and the kyng
of that ſhall haue warde marpage and relefe
but the kyng ſhal not haue of them eſcuage if
they holde not by eſcuage.

¶ Petite ſergeauntie. Cap. 9.

TEnure by petite ſergeauntie is wher a man
holdeth his lande of our ſoueraigne Lorde
the kyng to yeelde vnto him yearely a Bowe,
a ſweord or a dagger, or a knife, or a ſpere, or
a payre of gloues of Mayle, or a payre of
ſpurres gylte, or an arowe, or diuers arowes
or to yeelde ſuch other ſmall thynges touchyng
the warre and ſuche ſeruice is but ſocage in
effecte for that that the tenaunt by his tenure
ought not to goe nor to doo any thyng in hys
owne

owne proper person touching the warre. But to yelde and paye yerely certayne things vnto the king as a man ought to pay a rente. And note that no man may holde lande by graunde sergeauntie nor by petite sergeantie but of the kinge.

¶ Burgage. Cap. 10

TEnure in Burgage is where an auncient Borough is, of the which the king is Lord and they that haue tenementes within the borough holde of the king theyr tenementes that euery tenaunt for his tenement ought to paye to the kynge a certayne rent by yeare &c. And such tenure is but tenure in Socage, and the same maner is where an other Lord spirituall or temporall is Lorde of suche a borough and the tenauntes of the tenementes in such a borough hold of theyr Lorde to pay eche of them yearely an annuell rent, and it is called tenure in Burgage, for that the tenemēts within the borough be holden of the Lord of the borough by certayne rent &c. And it is to wete that the auncyent townes called Boroughes bee the moste auncient and eldeste Townes that bee within England, for the townes that now be cities or counties, in olde time were boroughs and called boroughes, for of such olde townes called boroughes came these Burgeses of the Parliamēt to the Parliament when the king hath summoned his Parliament.

¶ Also for the greater parte ſuche boroughes haue diuers cuſtomes and vſages whych be not had in other Townes, for ſome borough hath ſuche cuſtome that if a man haue iſſue of many ſonnes and dieth, the yongeſt ſonne ſhall inherite all the tenements which were his fathers within the ſame borough as heyre vnto his father by force of the cuſtome the whych is called borough Engliſhe.

¶ Also in ſome boroughes by the cuſtome the wyfe ſhall haue for hir dower al the tenements which were hir husbandes.

¶ Also in ſome borough by the cuſtome a man may deuiſe by his teſtament his lands and tenementes whych he hath in fee ſimple within the ſame borough at the time of his death & by force of ſuch deuiſe he to whom ſuche deuiſe is made after the death of the deuiſour, may enter in the tenementes to hym deuyſed to haue and to holde to hym after the fourme and effect of the deuiſe without any liuery of ſeiſin thereof to be made to him.

¶ Also though a man maye not graunte nor giue hys tenementes to hys wyfe durynge the couerture, for that that his wife and he be but one perſon in the lawe, yet by ſuch cuſtome he may deuiſe by his teſtamente hys tenementes to his wyfe to haue and to holde to hyr in fee ſimple or in fee taple, or for terme of lyfe or of yeeres, for ꝑ ſuch deuiſe taketh none effect but after the death of the deuiſor. And if a man at diuers times make diuers teſtaments and di-

uers

aers deuises &c. yet the last deuise & will made by him, shall stand and abyde.

¶ Also by such custome a man may deuise by his testament that his executours may alyene and sell the tenements that he hath in fee simple for a certayne summe to distribute for the soule, in this case though the deuisour dye seysed of the tenementes, and the tenementes descende vnto his heyre, yet the executours after the death of the testatour may sell the tenementes so deuised and putte out the heyre and thereof make a feoffement, alienacion, and estate by deede or without dede, to them to whō the sale is made vnto.

¶ And so may ye see heere a case where a man may make a lawfull estate, and yet hee hath nought in the tenementes at the tyme of the estate made & the cause is for that, that the custome and vsage is suche. Quia consuetudo & certa causa rationabili vsitata priuat communem legem. For a custome vsed vpō a certain reasonable cause, barreth the cōmon law. And note wel, no custome is to be alowed, but such custome as hath been vsed by title of prescripcō, that is to say, from time wherof is no mind. But diuers opinions haue been of time out of minde & of title of prescripcō whiche is all one in the law, for some men haue sayd that the time of minde shoulde be sayde for tyme of limitacion in a writte of Right, that is to say, fro the time of kinge Richarde the fyrste after the Conquest, as is gyuen by the Statute of

Westminster ỹ first, for that a writ of right is the moste highest writ in his nature that may be. And in such a writ a man may recouer his ryght of the possession of his auncesters of the most auncient time that any man may by any writ by the law. And in so much that it is geuen by the sayde estatute, that in such a wryte none shalbe hearde to aske of the seyson of his auncesters of more longer time than of the time of kyng Richarde afore sayde, therefore this is proued that continuance of possession or other customes and vsages vsed after the same time is title of prescription, and this is certain. And other haue sayde that well and truth it is that seisin and continuance after the limitation &c. is a title of prescription as is afore sayd and by the cause afore sayd. But they haue sayde that there is also an other tytle of prescription that was in the common law before any estatute of limitation of writs. &c. and that it was where a custome or vsage or other thyng had been vsed for time wherof minde of man runneth not to the contrary, and they haue said that this is proued by the pleding where a man will plede a title of prescripcion of custome &c. he shal say that suche custome hath been vsed from tyme wherof the memory of men runneth not to the contrary, that is as much to saye, when such a matter is pleded that no man then alyue hath heard one proofe to the contrary, nor hath no knowledge to the cõtrary, and in so much that suche title of prescripcion was at the common

lawe and not put out by any estatute. Ergo it abideth as it was at the common law, and the soner in so much that the sayde limitacion of a writte of right &c. is of so longe time passed. Ideo quere de hoc, and many other customes and vsages haue such auncient boroughs.

¶ Also euery borough is a Towne, but not to the contrary, more shalbe sayde of customes in the tenure of villeynage.

¶ Villeynage. Cap. 11.

TEnure in villeynage is most properly whā a villayn holdeth of his Lorde to whom he is villaine certayn landes and tenementes after the custome and maner or elles at the wyll of hys Lorde and to doe hys villayne seruyce, as to beare, bring, and carie out the doung and filth of the lord vnto the land of his lord there to lay it, cast it, and spreade it abrode vppon the land, and to do such other maner of seruice and some free tenaunts holde theyr tenements after the custome of certayne manours by suche seruice, and their tenure is called tenure in villeynage, & yet they be no villayns, for no lande holden by villeynage or villeyn landes, or any custome rysing of ỹ land shal neuer make free man villayn. But a villain may make free lād to be villain lande vnto his Lorde, as if a villayn purchase land in fee simple or in fee tayle, the Lord of the villayn may enter into ỹ lande & put out the villain & his heires for euer, and

after

after the Lord if he will he may lette the same land to the villayn to holde in villeynage.

Also, if a feoffement be made to a certayn person or persons in fee to the vse of a villayne or if a villayne or anye other persones bee enfeoffed to the vse of a villayne, what estate soeuer the villain hath in the vse, in fee tayle, for terme of ipfe, or yeares, the lord of the villayne may enter in all those landes and tenementes, likewise as if the villayne had been alone seysed of the demesne. And that is by the statute of Anno. 19. H. 7 But if a free man will take any landes or tenementes of his lorde by such villayn seruice, that is to saye, to pay a fine to his Lorde for his mariage, or for the mariage of his sonne or his daughter, then shall he pay suche a fine for the mariage. &c. for that it is the follye of suche a free man to take in such fourme landes or tenementes to holde of his Lorde by suche bondage, yet that maketh not the free man villayn.

Also, euery villayne, eyther he is villain by prescripcion, that is to say, he and his ancestors haue been villayns time out of minde, or he is villain by his owne confession in court of recorde. But if a free man haue diuers issues, and after confesseth himselfe to be villain to another in courte of recorde, yet his issues which he hath before the confession be free, but the issue which he shal haue after the confession &c. shalbe villaines.

Also if a villayn purchaseth landes & alie-

nes

meth the same lands to another before his lord enter, then the lord may not enter, for it shalbe iudged his owne folp that he entred not when the lande was in his villayns handes. And so it is of his other goodes, for if the villayne bye & sell, or giue goods to another before that the lord seaseth the goodes, then the lorde may not sease thē, but if the lord before any such sale or gift commeth within the house of the villayne where such goodes be, & there openly among ỹ neighbours clayme the same goodes to be his, & so seiseth parcel of the same in name of seysin of all the goodes. &c. This is sayde a good seysin in the law. And the occupacion that the villayn hath after such clayme in ỹ goods, shal be taken in the lawe in the right of the lord.

But if the king haue any villaine that purchaseth landes & alieneth before that the kyng enter, yet the kynge may enter in the lande in whose handes the lande commeth to. Or if the villayne bye or sell dyuers goodes before that the kyng seyse the goodes, yet the kynge may seyse them in whose handes that euer they be. Quia nullū tempus occurrit regi, for no time renneth against the king.

Also if a manne lette lande to another for terme of lyfe, saupng the reuersion to hym, and a villayne purchaseth of the lessour the reuersion, in this case it seemeth, that the lorde of the villayne maye incontinent come to the lande and clayme the same reuersion as Lorde of the same Villayne, and by thys clayme,

the

the reuersion is incontinent in him, for in any other fourme he may not come to the reuersion for he may not enter vpō the tenant for terme of lyfe and if he ought to auoyde tyll after the death of the tenant for terme of lyfe, then happely he might come to late, for peraduenture the Villayne wyll graunte or alyen it to another in the life of the tenaunt for terme of lyfe.

In the same maner it is where a villeyn purchaseth the auowson of a Church ful of an incumbent that the Lorde of the Villeyne may come to the sayde Churche and clayme the auowson. And by this clayme the aduowson is in hym, for if he abyde tyll after the death of the incumbent and then present hys clarke to the sayd Church: Then in the meane time the villain might alien the auowson &c. and so put out the Lorde from his presentacion.

Also there is a villain regardant and a villayne in grosse. Villayne regardaunt is as if a man be seised of a manour to which a villayne is regardant and he that is seysed of the sayde manour, or they whose estate hee hath in the same manour haue been seised of the sayd villayn and of his auncesters as villayns regardaunt to the manour fro tyme out of minde.

And villayn in grosse is where a man is seised of a manour to the which a villayne is regardaunt, he graunteth the same villayne by hys deede vnto another, thē he is villayn in grosse and not regardaunt.

Also if a manne and hys auncesters whose

whose heire hee is hath beene seised of a vyl-
layne and of hys auncesters as vyllayne in
grosse tyme oute of mynde suche beene vyl-
laynes in grosse. And note wel that of suche
thyngs whyche maye not bee graunted noz a-
lyened without deede oz fyne a manne that
will haue such thyngs by prescription maye
not otherwise prescribe but in hym and hys
auncesters whose heire hee is and not by these
woordes in him and in those whose estate hee
hath foz that that he may not haue their estate
without deede oz writing the which behoueth
to be shewed to the court if hee will haue anye
auauntage of this ℞ beecause that the graunt
and the alienacion of a villayne lieth not with
out deede oz other writyng. A man maye not
prescribe in a villayne in grosse without she-
wing of writing but in him self that claimethe
the villaine and in his auncesters whose heire
hee is. But of those thyngs which bee regar-
dauntoz appendaunt to a manour oz to other
landes oz tenementes, a man maye prescribe
that hee and they whose estate hee hath were
seised of the manour oz of such landes oz tene-
mentes as regardauntes oz appendauntes to
the manour oz to suche landes and tenements
&c. from tyme out of mynde, and the cause is
foz thys that suche a manour landes and tene-
mentes may passe by alienacion without dede.
&c. And it is to witte that nothyng is named
regardaunt to a manour but a vyllayne. But
certayne other thynges as auowsons and
commune

commune of pasture &c. be named appendan-
tes to the manour or to other lands and ten-
mentes.

¶ Also if a man in court of recorde know-
ledge him selfe to bee villayne that neuer w-
villayne beefore, suche one is vyllayne
grosse.

Also a man that is vyllaine is called vy-
layne, and a woman that is vyllayne is call-
niese, as a man that is outlawed is called
outlawe, and a woman that is outlawed
called a wayue.

¶ Also if a villain take a free woman to w-
the issue betwene them shalbe vyllaines. B-
if a niese take a free man to husband, their
issue shalbee free. And that is contrary to
lawe ciuile, for there he sayeth that partus
quitur ventrem.

¶ Also no bastarde maye bee villayne, but
that he will knowledge hym selfe to bee a v-
layne in court of recorde, for hee is in the la-
quasi nullius filius as the sonne of no man,
that he may be inheritour to no man.

¶ Also euerye villayne is able and free to
all maner of actions against euery persone
cepte agaynste his Lorde to whom hee is v-
layne, and yet in certayne thynges hee ma-
haue against hys Lorde an action of appe-
for the death of his father or of his other an-
cestors whose heire he is, also a nyese whyc-
is rauyshed by her Lorde may haue appelle
rape agaynst hym.

¶ Al

Also, if a villayne bee made executour to another, and the lorde of the villaine was indebted to the testatour in a certayn summe of money the whiche is not payd, in this case the villaine as executour to ỹ testatour shall haue an actiō of det against his lord, because he shal not recouer the det to his proper vse, but to the vse of the testatour.

Also, the lorde may not take out of the possession of suche a villayne that is executour of the deads goods, and if hee doo, the villayne as executour shall haue an action of Trespas against hys lorde for the same goods so taken, and recouer damages to the vse of the testatour. But in all these cases, it behooueth the lord which is defendaūt in such actions to make protestacion that the plaintif is his villain, for els the villayne shal be fraunchised though the matter be found for the Lorde against the villaine, as it is sayd.

Also, if a villayne sue an action of tresspas or other action against his Lorde in one shiere, and the Lorde sayeth that hee shall not be aunswered for that hee is villayne regardaunt to his Manoure, in another Shire, and the playnetyffe sayeth that hee is franke and of free estate and no villaine. this shall be tryed in the Shiere where the playntife hathe conceaued hys action, and not in the shiere where the Manour is, and this is in fauour of liberty, as it is adiuged. M. 40. E. 3

And

And for this cause was made a statute in th
xx. yeare of Richarde the second, the tenure
which ensueth in such forme.

¶ Also for that where many villaynes a
nyes as well of great lordes as of other
spirituall or temporal flee and goe into cyt
and places fraunchised as the citie of Lond
and other like places, and faine dyuers suit
against their lordes because they would m
them self to be enfrauchised it is accorded
assented that the Lords nor none other sh
forbarred of their villaines because of th
aunswere in the lawe. By force of whiche
tute of any villayne wil sue any maner of
cion to his owne vse in any shiere where
hard to trye &c. against his lorde, hys L
may chose to plede that the playntif is his
layn and to plede another matter in barr
if they be at issue and the issue bee founde
the Lord, thā the villain is villain as hee
before by force of the same statut. But y
issue be found for the villayn than is the
lain frank and free for that the Lord tok
for his plee that the villaine was his vill
but tooke it by protestacion.

¶ Also the Lorde maye not mayme
villayne, for if he mayme his villain he sh
that be endyted at the kynges suite. And
hee bee of that attaynt hee shall for that m
greeuous fine and raunsome to the kyng.
it seemeth that the villain shal not haue by

lawe any appelle of mayme agaynſt his lorde, for in appele of mayme a man ſhal not recouer but his damages. And if the villayne in that caſe recouer damages againſt his Lorde, and hath therof execution, the lord maye take that that the villayne hathe in execution from the villayne, and ſo the recouery ſtandeth bonde.

¶ Alſo if the villaine be demaundant in an action real or plaintiffe in an action perſonell againſt his lorde if the lorde wil plede in diſabilitie of his perſon, hee maye not make playne defence, but he ſhal defend but the wrong and the force and demaund iudgement if hee ſhall be aunſwered and ſhewe his matter by and by how hee is villain and demaund iudgement if he ſhalbe aunſwered.

¶ Alſo fiue maner of men therebee againſte whom if they ſue actions &c. iudgement maye be aſked if they ſhalbee aunſwered. One is where the villaine ſueth an action &c. againſte his lorde is in caſe afore ſayde. The ſecond is where a manne outlawed vppon an action of dette or treſpas or vppon any other action or writement, the tenaunt or the defendant may ſhew all the matter of the recorde and the outlawry & demaund iudgement if he ſhalbe aunſwered becauſe that hee is out of the lawe to ſue any action duryng the time that he is outlawed. The thirde is where an aliene doone out of the allegeance of our ſoueraigne lorde y^e kyng, if ſuche aliene ſue anye action reall or

perſonal, the tenant or defendant may ſay that he was borne out of the kynges allegeaunce, & aſke iudgement if he ſhalbee aunſwered. The fowerth is, where a man by iudgement geuen againſt him vpon a writ of Premunire facias &c. is out of the kings protection if he ſue any action, and the tenaunt or defendant ſhewe all the record againſt him, he may aſke iudgement if he ſhalbe aunſwered, for ỹ lawe & the kynges writtes been the thyngs by whiche a man is proteꝛt and holpen and ſo during the time that a man in ſuche caſe is out of the kyngs protection, he is out of helpe & proteꝛt by the kyngs lawe or by the kinges writ.

¶ The fyft is, where a man is entred and profeſſed into religion, if ſuche a perſon ſue an action, the tenant or defendant may ſhewe that ſuch one is entred into religion in ſuch a place into the order of Saint Benet, and is there a monke profeſſed, or in the ordeꝛ of fryers minours or preachers, and is there a fryer profeſſed, and ſo of other ordeꝛs of religion &c. and aſke iudgement if he ſhalbe aunſwered, & the cauſe is this, that when a man entreth into religion and is profeſſed, he is dead in the lawe, and his ſonne or next coſin incontinent ſhall inherite him aſwell as thoughe hee were dead in deede, and when he entreth into religion, he maye make his teſtament & his executours, & they maye haue an action of Dette due to him before his entre into religion or any other action that executours may haue if he were dead

in deede,

in dede. And if he make none executors whan he entreth into religion, thā the ordinary maye commit the administracion of his goods to o-ther as if he were dead in deede. The sixte is where a man is accursed by the lawe of holye Churche, and he sueth an action reall or perso-nall, the tenaunt or defendaunt may plede that he that sueth is accursed, & of this it behoueth him to shewe the Bysshops letters vnder hys seale, witnessyng the accursing and aske iudge-ment if he shalbe answered &c. but in thys case if the demaundant or pleintife cannot denye it, the writte shall not abate, but the iudgemente shalbe that the tenaunt or defendant shall goe quite without day for this, that whan the de-maundaunt or plaintife hath purchased his let-ters of absolucion & shewed them to the court, he may haue a resommons or a reattachement vppon his originall after hys nature of hys writte &c. But in the other cases the writte shall abate &c. If the matter shewed may not be gaynsayd.

Also if a villain be made a secular preest, yet his lord may seise him as his villain & seise his goods &c. But it seemeth ẏ if the villain entre into religion & is professed &c. ẏ the Lord may not take him nor seise him for ẏ he is dead in ẏ law. And no more than if a free mā may take a niece to his wife ẏ lord maye not take ne sease ẏ wife of the husbande. But his remedye is to haue an action agaynste the husbande, for that he tooke his niece to wyfe without hys wyll

and so maye the lorde haue an action agaynst the soueraigne of the house that taketh and admitteth his villayne to be professed in the same house without licence and wyll of his Lorde &c. and shal recouer his damages to the value of the villaine, for hee that is professed monke &c. shalbee a monke, and as a monke shalbee taken for terme of his life natural, excepte he be dcrapued by the lawe of holy chyrche, and he is holden by his religion to keepe hys cloyster, and if the Lord may take hym out of his house, than hee should not liue as a dead person nor after his religion which should be incontinent &c, For if there be wardeine in chyualry of body and of lande of a chylde within age, if the childe when he cometh to the age of xiiij. yeres enter into religion and is professed, the wardein hath none other remedy as to the warde of the body, but a wryt of Rauishment of warde against the soueraigne of the house. And if any being of full age that is cosin and heire vnto the chylde entre into the lande, the wardeine hath no remedy as to the warde of the lande, because that the entre of the heire of the childe is lawful in suche case.

¶ Also in many diuers cases the Lorde may make manumission and in fraunchising to be villayne. Manumission is properly whan the Lord maketh his deede to his villain to enfranchise him by this woord Manumittere. which is as muche to saye as extra manum, et extra potestatem alterius ponere, as to put him out of the

of the hande & and the power of another. And for this that by such a deede the villayn is put out of the hand & power of his Lord, it is called manumission. And so euery maner of enfraunchising made to a villayne, may be sayde a manumission. Also if the Lorde make to his villayne an obligacion for a certayn summe of money, or graunte vnto hym by his deede an annuitie, or let him by his deede, landes or tenementes for terme of yeares, the villayne is enfraunchised. Also if the Lord make a feoffement to hys villayne of anye landes or tenementes by deede or without deede in fee simple or fee tayle, or for terme of yeares, and delyuereth vnto hym the seysin, thys is an infraunchysing, but if the Lorde make to hym a lease of landes or tenementes, to holde at the will of ỹ Lord, by deede or without deede, this is no fraunchysing, for that he hath no maner of certayntie nor suertie of his estate, but that the Lorde may put him out when he wil. Also if a Lord sue agaynst his villayn a Precipe quod, if he recouer or be nonsuite after appearaunce, this is a manumission, for thys that he may lawfully enter into the lande without such suite. In the same maner it is if he sue agaynste his villayne an action of Dette, or of accompte, or of couenaunte, or of trespas, or suche other, thys is an infraunchisinge &c. for thys that he may empryson his villayn, & take his goods without such suit. But if the Lord or his villayne by appeale of Felony, thys is

none enfraunchising to the villayn though the matter of the appell is found against the Lord bicause that the lord may not haue the villain hanged without such suite. But if the villayn were not endited of the same felony before the appelle sued agaynst him and is aquited of the felony, so that he recouer damages against the Lord for the false appeale. And in this case the villayn is enfraunchised bicause of the iudgement of dammage that was gyuen to hym against hys Lord. And more cases and matters there be by ỹ which a villain may be enfraunchised against his lord. Sed de illis quere. Also if a Lorde of a manour wyll prescribe that it hathe been accustomed within hys manour tyme out of mynde that euery tenant within ỹ same manour that marieth his daughter to any man without licẽce of the lord of ỹ manour shal make fine to the Lord for the time being, this prescripcion is voyde, for none ought to make suche fines but onely villaynes, for euery free man may freely mary hys daughter to whom it pleaseth hym & his daughter. And bicause that this prescripcion is agaynst reason such prescripcion is voide. But in the shyre of Kent of lands holden in Gauelkind where by the custome and time out of mynde the childrē males ought euenly to inherite, thys custome is allowable, for this that it is with some reason bicause that euery sonne is as great a gentleman as the elder sonne, and bycause of this more great honour and valure shal grow then if he

if he had nothyng by hys auncestours, where peraduenture he might not so growe &c.

Item, where by custome called borough English, in some borough ỳ yongest sonne shal inherite all the tenements &c. This custome also standeth with reason, bicause that ỳ yonger sone if he lacke father & mother bicause of hys young age, may least of all his brethren helpe himselfe &c. But if a man will prescryde that kanye cattell were vpon the demesnes of hys manour there doing domage, that the lorde of the manour for the tyme beinge hath vsed to distrayne them and the distres to retayne tyll fine were made to him for the damages at his will, thys prescripcion is voyde, bicause it is against reason that if wrong be done to 1 man that he therof should bee his owne iudge, for by such way if he had damages but to the value of an halfe peny, he might assesse and haue therof an hundreth pound which should be agaynst all reason, and so suche prescripcion or any other prescripcion vsed if it bee agaynst all reason, this ought not nor will not be allowed before iudges. Quia malus vsus abolendus est

¶ Rentes. Cap. 12.

THree maner of rentes there bee, that is to saye, Rent seruice, Rent charge, and Rent seke. Rent seruice is, where a man holdeth hys lande of his Lord by fealtie & certain rent or by other seruice, and certayn rent.

¶ Or by homage, fealtie, and certayne Rent.

And if rent seruice at any day that it ought to be payd be behinde, the Lord may distreyn for that of common right. And if a man nowe will giue landes or tenementes to another in the tayle, yelding to him certayn rent by yeare, he of common ryght may distrain for the rent behynde, though that such gift was made without a deede, bicause that such rente is rent seruice, but in such case where a man vpon such a gift or lease will reserue to hym rent seruice, it behoueth that the reuersion of the landes and tenementes be in the donour or in the lessour, for if a man will make a feoffement in fee, or will giue landes in the tayle, the remaynder ouer in fee simple without a deede, reseruyng to hym certayne rente, such reuersion is voyde, bicause y^t no reuersion is in the donour and such a tenaunt holdeth his lande immediatly of the Lorde of whome his donour held. And this is by force of the estatute of Westm. 3, Cap. 1. Quia emptores terrarū. For before the same estatute if one had a feoffement in fee simple by deede or without deede, yelding to hym and to his heyres certayn rent, this was rente seruyce, and for this he myght distrayne of common right. And if he made no reuersion of any rente nor of any seruice. yet the feoffee held of the feoffour by suche seruyce as the feoffour held euer of his lord next aboue. But if a man by deede indented at day, make such a gyfte in the tayle, the remaynder ouer in fee. or feoffement in fee, and by the same indenture

ture reserueth to him and to hys heyres a certaine rent, and that if the rent be behinde, that it shalbe lefull to him and to hys heires to distraine &c, such rent is rent charge, bicause such landes and tenementes be charged of such distres by force of the wryting onely, and not of cõmon right. And if such a man in such a deede endented, reserue to hym and to hys heyres certayne rent without any such clause sette or put in the deede, that he may distrayne &c. that such rent is rent secke, because that he cannot distrayne to haue the rent if it be denyed by ye same distres, & if he was neuer seysed in this case of the rent, he is without remedy as shal be sayde hereafter. Also if a man seysed of certaine land graunt by his dede Polle, or by endenture, a yearely rent issuing out of the same lande to another in fee simple or in fee tayle, or for terme of lyfe &c. with clause of distres, &c. then that is rent charge, and if it bee without clause of distresse, then it is rent secke, and note well, that rente secke idem est quod redditus siccus, and for that, that no dystresse is incident to it. Also, if a man graũt by his dede to another, and the rent is behinde, the graũtee may choose if he wil sue a wryt of Annuitie and not against the grauntour, or distrayn for the rent behinde, and the distresse to withholde tyll he be of that payde. But he may not doe and haue bothe together, for if he take a wrytte of Annuitie, thẽ the lord is discharged. And if he sue not a wrytte of annuitie, but distrayn for ye arrera-

arrerages, & the tenant sueth a Replegiare &c. & the grauntee auoweth the taking of the dystresse in the lande &c. in court of record, then is the land charged, & the person of the grauntour discharged of an action of annuitie.

¶ Also, if a man will that another shal haue rent charge issuyng out of the landes, but he wyll not that his person shalbe charged in maner by a writ of annuitie, then he may haue such a clause in the ende of his deede. Prouiso semper quod presens scriptum, nec aliquid in eo specificatum, non aliqualiter se extendat ad onerandam personam meam per breue de annuali redditu, Sed tantūmodo ad onerandum terrā et tenemēta predicta de annuali reddit predicto. And then is the land charged, and the parson of the grauntour discharged.

Also, if a man make such a dede in such maner, that if A of B. be not yearely payde at the feast of Christmas for terme of his lyfe of x. shyllinges of lawfull money, that then it shall be lefull to the sayd A. of B. to distrayne for it in the Manour of F. &c. this is a good rent charge, bicause that the manour is charged with the rent by way of distresse. And yet the person himselfe that made such a dede is discharged in this case of an action of annuitie, bicause that hee graunted not by his deede any annuitie to the sayde A. of B. but graunted onely that he may distrayne for his annuitie.

¶ Also, if a man haue a rent charge to hym and to his heyres issuing out of certayn landes,

if he purchase any parcell of the lande to hym and to hys heires, all the rents is extincte and annulled bycause the rente charge may not in suche maner be appoꝛcioned, but if a man that hath rent seruice purchase parcell of the lande whereof the rente is, thys shall not extincte all, but foꝛ the poꝛcion, foꝛ the rente seruyce in suth case may bꝛ appoꝛcioned and shall bee appoꝛcioned after the value of the lande, but if a tenaunt holde hys lande by seruyce to yelde to hys Loꝛde yearely at such a feaste an hoꝛse, oꝛ an hauke, oꝛ such thynge semblable, if in suche case the Loꝛde purchase parcell of the lande, the seruyce is gone, bycause that such seruyce may not be seuered noꝛ appoꝛcioned, but if a man holde hys land of another by homage, fealtie and escuage, and by certayne rente if the Loꝛde purchase parcell of the lande &c. In that the rente shalbe appoꝛcioned as is afoꝛesayde, but yet in this case the homage and fealtie abideth whole to the Loꝛde, foꝛ the Lord shall haue the homage and fealtie of hys tenant foꝛ the remenant of lands and tenementes holden of hym as he had befoꝛe &c. foꝛ thys that such seruices be no annuell seruices and may not be appoꝛcioned. But the escuage may and shall bee appoꝛcioned after the quantitie and rate of the lande.

¶ Also if a man haue a rent charge, and hys father purchaseth parcel of ỹ tenements charged in fee and dyeth, and that parcell dyscendeth to his sonne that hath the rēt charge, now this

this rente charge shalbe appoꝛcioned after the value of the lande, as is afoꝛesayd of rent seruice, bicause that suche a poꝛcion of the lande purchased by the father, commeth not to the sonne by hys owne deede, but by dyscent and course of the lawe.

¶ Also if there be Loꝛde and tenaunt, and the tenaunt holdeth of his Loꝛd by fealtie and certaine rent, and the Loꝛd graunteth the rent by hys deede to another &c. reserupng to hym the fealtie, & the tenaunt attourneth to ẏ graunte of the rent, now such rente is rent secke to the grauntee foꝛ this that the tenementes bee not holden of that grauntee of the rent but be holden of the Loꝛde that receyueth to hym fealtie. And in the same maner it is where a man holdeth his land by homage, fealtie, & certayne rent, if the Loꝛd graunt ẏ rent, saupng to hym the homage, such rent after such graũt is rent secke, but where landes oꝛ tenementes bee holden by homage, fealtie, and certayne rent, if the Loꝛd will graunt the homage of his lande by his deede to another, saupng to hym the remenant of the seruices and the tenaunt attorneth to hym after the fourme of the graunte, nowe in this case the tenaunt holdeth his land of the graunt, and the loꝛd that graunteth the homage shall not haue but the rente as rente secke, and shall neuer distrayne foꝛ the rent foꝛ thys, that neyther homage, noꝛ fealtie, noꝛ escuage may be sayd secke, foꝛ he ẏ hath oꝛ ought to haue of his tenaunte homage, oꝛ fealtie, and

escuage,

escuage may of common right distrayne for it if it bee behynd, for homage, fealtie & escuage been seruices by which lands and tenementes be holden, and been suche that in maner maye bee taken but as seruices. But otherwyse is of rent that was once rent seruice for this that whan it is seuered &c. by the graunt of ỹ lorde to the other seruices, it may not be sayde rent seruice for this ỹ hath not to it fealtie whych is incident to euery maner of rent seruice, and in this it is sayde rent seck.

Also if a man let lande to another for terme of life, reseruyng to hym certayne rent, if hee graunt the rent to another sauyng to hym the reuersion of the land so letten by his deede &c. suche rent is but rent secke, for this that the grauntee hath nothing in the reuersion of the lande. But if he graunt the reuersion of ỹ land to another for terme of life and the tenaunt attourneth &c. then hathe the grauntee the rent esrent seruice because hee hath the reuersion for terme of lyfe. And so it is to be vnderstand that if a man geeue landes or tenementes in the tayle, reseruyng to hym and to hys heires certaine rent or let land for terme of life reseruyng certaine rent yf hee graunt the reuersion to another, and the tenaunt attourneth all the rent and seruice passethe by the woord of the graunte of reuersion for this that all the rente and seruice in suche case bee incidentes to the reuersion and passe by the graunte of reuersion. But though he graunt the rent to another

the

the reuersion passeth not by suche graunt. ¶ And so note wel the diuersity. And so it is holden Pasche. xij. E. quarti. But it is adiudged An. xxvi. lib. Assisarū where as the seruices of the tenant in taile were graunted ỹ that was a good graunt yet notwithstanding the reuersion remaynes.

¶ Also if there be Lord, mesne and tenaunt and the tenaunt holde the of the mesne by the rente of fiue shillings, and the mesne holdeth ouer by twelue pence, if the lorde aboue purchace the tenauncye in fee, then the seruice of the menaltie is extinct for this, that whan the Lorde aboue hath the tenaunce, he holdeth of the Lorde next aboue him. And if he ought to holde it of him that was mesne, than he should holde one selfe tenaunce immediatlye of diuers Lordes whiche shoulde bee inconuenient, and the lawe wil sooner suffer a mischiefe than an inconuenience, and for thys the seygnorye of the menaltie is extynct. But not so muche that the tenaunt holde of the mesne by .s. and the mesne held but by .xij. d. so that he had more auauntage by .viij. s. than he payde his Lorde, hee shall haue the sayde .viij. s. as a rent seeke yearely of the Lorde that purchaced the tenaunce.

¶ Also if a manne that hathe rent seeke be once seysed of any parcell of the rente, and after if the tenaunt will not paye the rente that is behynde, thys is hys remedye. It behoueth hym to goe by hym selfe, or by another

to the

in the landes and tenementes whereof the rente is issuyng, and there to demaund the arrerages of the rente. And if the tenaunt deny to paye it, thys denying is a disseisin of the rente. Also, if the tenaunt at the tyme bee not ready to paye it, this is a denying and a disseisin. Also, if the tenaunt, nor none other bee dwelling vppon the landes or tenements whē hee asketh the arrerages, &c. this is a denying in lawe, and a disseisin in deede, and of suche disseysins hee maye haue an assise of nouel disseisin agaynste the tenaunt, and recouer the seysin of the rent, and the arrerages, and hys damages and costes of hys writte and of his [illegible] &c. And if after suche recouerye the rente bee another time denyed him, than he shal haue a redisseisin and recouer double damages. And it is to bee hadde in mynde, that this name Assise is Equiuocum. For sometime it is taken for a Jurye, for in the beginning of the recorde of assise of nouel disseisin, the recorde shall beegynne thus. (Assisa venit recogñ) which is to say, ÿ iuratores veñ recogñ, and the cause is for this, that by the wryt of assise is commaunded to the sheriffe quod faciat .xij. liberos et legales homines de viceneto &c. videre tenemētum illud & nomina eorum imbreuiari, & quod sumñ eos p bonos sumñ q̄ sint coram iusticiarijs &c. parati inde facere recognitionem &c. And for this, that by force of suche originall writte, a Pannell by force of the same writte ought to bee retourned &c. It is

sayde

sayde in the beginnyng of the record in as
Assisa venit recogn &c. Also in a wryt of ry
it is commonly sayd, that the tenaunt may p
him in good and in ye great assise &c. Also th
re is a wrytte in the Regyster , called D
magna assisa eligenda, so is this a good pro
that this name assise, sometime is put for
Jurye, and sometime it is taken for all t
wryt of assise, and after that entent it is m
properly and most commonly taken, as as
of nouel disseisin is taken for all the wryt
assise of nouel disseisin. In the same maner
sise of cōmon pasture is taken for all the wr
of assise of common pasture, and assise of mo
dauncester, and assise of Darrain presentm
&c. But it seemeth that the cause is why su
writtes at the beginnyng were called assis
for thys, that by euerye such wryt it is com-
maunded to the sherife that he sommon an a
which is as muche to say, ye hee ought to som-
mon a Jurye &c, and sometime assise is take
for an ordinaunce, for to set certayne thyng
in a certayne rule and disposicion, as an ord
naunce that is entred in the auncient sta
tes, is called Assisa panis & seruicie. Also
there be lorde and tenaunt, and the lord gra
teth the rente of his tenaunt by deede to an
ther, sauing to him the other seruice, and th
tenaunt attourneth, this is a rent secke as
is aforesayde. But if the rent be denied him
the next day of payment, hee hath no remed
for this that he had nor thereof any posses

But

But if the tenaunt when hee attourneth to ỹ grantee or after will geeue a peny or an halfe peny to the grauntee in ỹ name of seisin of rēt then if after at the nexte daye of payment the rent be denyed him, he shal haue assise of Nouel disseisin, and so it is if a man graunt by his deede a yerely rent issuing out of his lande to an other &c. If the grauntour than after paye to the grauntee i.d. or an halfe peny in ỹ name of seisin of the rent than after the firste daye of payment the rent bee denied, the grantee maye haue assise, or els not. Also of rent seek a man may haue assise of Mortdaunceſter, or a writ of Iyel or Cosinage, and al other maner of actions reals, as the case lyeth as hee may haue of any other rent.

¶ Also there be three causes of disseisin of rēt seruice, that is to say, rescous, repleuine, & enclosure. Rescous is, when the lord distreineth in the land holden of him for his rent behynde yf the distresse bee reserued fro him or the lord come vpon the land and would distrayne and the tenaunt or an other man wyll not suffer hym &c. Repleuin is when the lord hathe dystrained, and repleuin is made of the dystresse by writte or by playnt &c. Enclosure is if the landes and tenementes bee so enclosed, that the lorde may not come wythin the lande and tnements for to distraine, and the cause why such things so doone bee disseisins made to the Lorde is for this, ỹ by such things the lord is disturbed of the meane by which hee ought to

haue come to his rent. And fower causes be of disseisin of rent charge, that is to saye, reiceus repleuin, enclosure, and denyer, for denying is a disseisin of rent charge as it is aforesayde of rent secke, & two causes bee of disseisin of rēt secke, that is to say, enclosure, and denyer, and yet it seemeth ỳ there is an other cause of dysseisin of all the three rentes aforesaide, that ys whan the lorde is goyng to ỳ land holde of him for to distreine for the rent beeing behynde, the tenant hearing this, encountreth him & forestalleth him the way wt force & armes & manaseth him in such fourme ỳ he dare not come to ỳ land for to distrayn for his rēt behynde &c. for doubt of death or bodely hurt, this is a disseisin, for this that the lorde is disturbed of the meane whereby hee ought to come to his rent, and so it is if by such forstalling & manassing hee that hath rent charge or rent seck is forestalled or dare not come to the land to aske the rent behynde.

¶ The thirde Booke.

¶ Parceners. Cap. i.

PArceners bee in two maners, that is to say, parceners after the course of the common law, & parceners after the custom. Parceners after ỳ course of ỳ common law be, where a mā or a womā be seised of certein lande or tenementes in fee simple or fee tail & hath none issu but daughters & dieth and

and the tenements discend to the daughters & the daughters enter into the lands & tenemẽts so to them discended than they bee called parceners & bee but one heire to their auncester & they be called parceners for this ỹ by ỹ writ that is called Breue de participatione facienda the lawe will constraine them that participacion shalbee made among them & if there be.ii. daughters to whom the lande discendeth then they be called two parceners & if they bee.iii. daughters they bee called three parceners, and fower daughters fower parceners & so foorth and if a man seased of lands in fee simple or in fe taile dye without issue of his body, and the tenements discende to his sisters they be parceners as is aforesaide. In the same maner it is where he hath no sisters but the land discendeth to his auntes they bee parceners, but if a man haue but one daughter shee maye not bee sayde parcener but daughter and heire. And it is to weete that partition betweene peceners may bee made in diuers maners, one is when they agree to make partition and make partition of the tenementes as if there bee two parceners to deuide betwene them ỹ tenemẽts in two partes euery parte by him self in seuetalty of euen value and if there be three parceners to deuyde the tenements in three partes in seuetralty. In other ptictõ there is to choose by agreement betwene thẽ & certein of theyre frends to make ỹ partition betwene them of ỹ lands and tenements in the fourm aforesayde.

And in suche cases after such partition the elder daughter shall choose first one of the parts so deuyded whiche shee wil haue for her part. And then the second daughter after her another parte &c. if it so bee that there be many sisters &c. If it be not that they ne be otherwise agreed betweene them, for it may be agreed betweene them that one of them shall haue such tenements and an other suche tenementes &c. without any suche first election and the parte that the elder sister hath is called in lattin Emitia pars, but if the parceners agree that the elder sister shall make partition of the tenementes in the fourme aforesaide, and if she do then it is saide that the elder sister shall choose the last parte after eche of her other sisters. In other partition and allotting there is, as yf there bee fower parceners and after such partition made of the landes euerye parte of the lande is by it selfe written in a little scrowe, and it is couered all in were in a manner of a lyttle ball so that no man may see the scrowe, then is the fower balles of were put in a Bonet to keepe in the hands of an indifferent man, and then the elder daughter first shall put her hand in the bonet whiche shall take a balle of were and the scrowe within the same ball for her purparty, and then the secounde sister shall put her hande in the Bonet and shall take an other, and so then the thirde sister the thyrde ball &c. & in this case it behoueth eche of them to hold them to their chaunce and allotment.

¶ Also

¶Also an other partition there is as if there bee fower parceners and they will not agree that partition shalbe made betweene thē, then one of them may haue a writ de partitione facienda against the other three sisters, or two maye haue a write of partitipatione faciendā, against the other or the three against ye fower at the election and when iudgement shalbee geuen vpon such a writ, the iudgement shal bee such the partition shalbee made betweene ye parties and the shirife in hys proper persone shall goe to the landes and tenements &c. and that hee by the othe of xii. true men of his bayliwike &c. shal make partition betweene the partyes the one party of the same landes shall bee assigned to ye pleintif or to one of the pleintifes, & an other party to an other &c. not making mencion in the iudgement of the eldest syster more then of the yongest, and of the partition that hee hath, this doone hee shall make notice to the iustices &c. vnder hys seale and the seales of the xii. &c. and so in this case maye you see that the elder syster shall not haue the first election &c. but the sherife shal assigne the parte that shee shall haue &c. and it maye bee that the shirife will assigne first a parte to the yonger sister and the laste part to the elder.

And note well partition by agreement betweene parceners maye by the lawe bee made among them as well by woord without deede as by deede.

¶Also yf two meses discende to two par-

ceners and the one mese is worth by yere. xx. s. and that other but. x. s. by yere, in this case particion may bee made betweene them in such forme that the one parcener shall haue the one mese and the other parcener shall haue the other mese, and hee that shall haue the mese of xx. s. and his heires shall paye a yerelye rent, of. v. s. yssuyng out of the same mese to another parcener and to his heire for euer, because that euerye of them shall haue eeuen in value, and suche partition made is good ynough, and the same parcener that shall haue the rent of. v. s. and hys heyres maye distrayne for the rent of common ryght in the same mese of the value of. xx. s. if the rent of v. s. bee behynde at anye tyme in whose handes so euer the same mese commeth thoughe there was neuer wrytyng made of it betweene them, in the same maner it is of partition of all maner of landes and tenementes &c. Where suche rent is reserued to one or to dyuers parceners vppon suche partition &c. but suche rent is not rent seruyce, but rent charge, of common ryght had and reserued for egalty of the partition. And note well that none bee called parceners by the common lawe but women or the heyres of women, and whiche come by landes and tenements by discent, for if sisters purchace landes or tenements of this they been called Jointenauntes and not parceners. Also if two parceners of lande in fee simple make partition betweene them &c. and in the part of that one

valueth

valueth much more then the part of the other, if they were at the tyme of partition of full age, that is to say, of .xxi. yere, thā they alway shall abyde and neuer bee defeated, but if tenements whereof bee made partitions be to thē in fee taile, and the partye that one hath is much better in yerelye value than the parte of the other, howbeit that they bee excluded during their lyues to defete the partition, yet if the parcener ỹ hath the lesse part in value hath issue and dyeth, the issue maye disagree to the partition and enter & occupy in common that other parte that is allotted to her aunt, & so ỹ aunt may enter and occupy in common the other parte alotted to her sister, as no partition thereof had been made &c.

¶ Also, if two parceners of tenements in fee take husbands, and they and their husbandes make partition betweene them, if the parte of ỹ one be lesse in yerelye value then the parte of ỹ other during ỹ lyues of the husbandes, the partition shalbee in his force and strength, yet after the death of the husband the wife ỹ hath the lesse parte &c. the same wife or womā may enter in her sisters part as it is aforesaid, and defete the partition, but if ỹ partition so made betweene thē were such, ỹ at tyme of lotteme̅t were egall of yerely value, then it may not after bee defeted in such cases.

¶ Also, if there bee two parceners & ỹ ponger of them bee within the age of. xxi. yeare, and partition is made betweene them, so that the

parte that is allotted to the ponger, is lesse in
valuethen the part of that other. In this case
ỹ ponger during the tyme of her nonage, and
also when shee cometh to full age of.xxi.yeare,
may enter in the porcion of her sister allotted,
&c. and defeate the particion, but such a parce-
ner ought to take heede when shee cometh to
full age, that shee ne take to her owen vse, all ỹ
profits of the tenemẽts to her allotted, for by
that shee agreeth to the particion at such age,
in which case the particion shall stande and a-
bide in his force and strength &c. but peraven-
ture the profites of the half shee may take leav-
ing the profits of the other halfe to her sister
&c. It is to weete, that when it is sayd males
and females bee of full age, that shall bee vn-
derstanded of ỹ age of xx. yeare, for if any feof-
fement or graunt, relefe, confirmacion obly-
gation, or anye other writing before any such
age bee made by any of them &c. or ỹ any wñ
such age bee bailife or receiuer wñ any man &c.
al serueth for nought & may bee auoided. Also
a mã before such age shal not bee sworne in no
iury nor no inquisition. Also if tenementes bee
geeuen to a man in the taile whyche hath as
muche lande in fee simple, and hath issue two
daughters and dieth, and the daughters make
particion betwene them, so that the landes in
fee simple bee alotted to the younger daugh-
ter in allowaunce of the tenementes tayled,
allotted to the elder daughter, if after such par
ticion the yonger daughter alieneth the lande

in

in fee ſimple to an other in fee, and hath iſſue a ſonne or a daughter and dyeth, the iſſue may enter in the tenementes tailed, and them to holde in property wyth theire Aunt, and thys is for two cauſes, one is for that, that the iſſu maye haue no remedye of the lande alyened by his mother, for that the land was to her in fee ſimple, and in ſo much that hee is of the heires in the taile, and hath nothing recompenſed of that, that to him belongeth of the tenementes tayled, and namely when ſuch partition maketh no diſcontinuaunce of the tayle as ſhall bee ſayd heereafter in the Chapter of diſcontinuaunce. But the contrary is holden M. 10. H.6. that is to ſaye, that they maye not enter vpon the parcener that hath his lande tayled, but is ſent to his Formedon.

In other cauſe is, for that, that it ſhalbee ettred the folye of ỹ elder ſiſter, that ſhe would agree to the partition where ſhee myght haue had halfe the land in fee ſimple, and halfe of the tenementes in the taile for purpartye, and ſo to bee ſure without damage &c. Alſo if a man ſeiſed in a ploughe lande by iuſt tytle dyſſeiſeth an infaunt within age of another ploughe lande, and hath iſſue two daughters, and dyeth ſeyſed of both thoſe plough landes, the enfant than beeing within age, & the daughters enter & make partition, then ỹ one plough lād is lotted to the purparty of the one, as parcaſe to the yonger ſiſter in alloWaunce of that o-

ther

ther ploughe lande that alloteth to the par-
party of that other, ſo that after the infant en-
treth in the ploughe lande of the whyche he
was diſſeiſed vppon the poſſeſſion of the par-
cener that hath the ſame plough lande, that ȳ
ſame parcener may enter into ȳ other plough
lande that the ſyſter hath and holdeth in par-
cenary with her, but if the yonger ſiſter alien
the ſame plough lande to an other in fee ſym-
ple beefore the entre of the enfaunt, and after
the childe entreth vppon the poſſeſſion of the
alienee, then ſhee may not enter into the other
plough lande, for this that by her alienation
ſhee hath vtterly diſmiſſed her ſelfe to haue a-
ny parte of the tenementes as parcener, but if
ȳ yonger ſiſter before the entre of the enfaunt
make thereof a leaſe for terme of yeres or for
terme of life, or in fee taile, ſauing the reuerſion
to her, and after the childe entreth, there per-
aduenture it is otherwiſe, for this that ſhe
diſmiſſed not her ſelfe of all that, that was in
her, but hath reſerued to her the reuerſion and
the fee ſimple &c.

¶ Alſo if there bee three or fower parceners
that make partition betweene them, if the part
of the one parcener bee defeted by ſuch lawful
entry, ſhe may enter and occupy ȳ ſame other
lands of all the other parceners, and compelle
them to make new partition of ȳ other landes
betweene them &c.

¶ Alſo, yf there bee twoo parceners, and the
one taketh an huſbande, and the huſbande and
the

the wife haue issue betweene them, & the wyfe dyeth, and the husband holdeth him in ẏ halfe as tenaunt by the curtesy. In thys case ẏ parcener that suruiueth & the tenant by the curtesy may wel make partition betweene thē. &c. And if the tenaunt by curtesye will not agree to make partition, than the parcener that suruiueth may haue a writ de participatione faciendā &c. and compell him to make partition. But if the tenant by ẏ curtesy will haue partition betweene them, & the parcener that suruiueth will not haue it then the tenant by the curtesy shall haue no remedy for to haue partition for he may not haue a writ de ptiçipatione faciendā, for this that he is not parcener, for such a writ lyeth for parceners al onelye, And so may ye see ẏ the writ de participatione faciēda lyeth against tenants by the curtesy, & yet him selfe may not haue such a writ.

¶ Parceners by the custome. Cap. 2.

¶ Parceners by the custome bee where a man seased in fee taile of the landes or tenemēts that bee of the tenure called Gauelkynd within ẏ shyre of Kent, & hath issues dyuers sōnes and dyeth, suche landes and tenementes shall discende to all the sonnes by the custome, and they euenlye shall inherite and make partition betweene them by the custome as females do, and a writ de participacione faciēda lyeth in this case as betweene females, but it

it behoueth in the declaration to make mencō of the custome. Also suche custome is in other places in England and also such custome is in North wales.

¶ Also there is an other partition that is of an other nature, and in an other forme than any of the partitions aforesaide, as a man seased of certeine landes in fee simple hath issue twoo daughters, and the elder is maried, and the father geueth parcell of the same landes to the husbande with his daughter in franke mariage, and dyeth seased in the remenaunt the whiche remenaunt is of more greater value by yeare then bee ỹ landes geeuen in franke mariage.

¶ In thys case the husbande and the wyfe shall haue nothing for theire parte of the sayd remenaunt, but if they will put theire landes geeuen in franke mariage in hotchpot with the remenaunt of the lande wych her syster, and yf they will not doo so, then the ponger syster may occuppe the same remenaunt, and take to her the profits onely, and it seemeth that thys woord hotchpot is in Englishe a pudding, for in suche a pudding is commenlye put not one onelye thing, but one thing with an other and for this that yt behoueth in suche case to putt the landes geeuen in franke mariage with the other landes in hotchpot yf the husbande and the wyfe will haue anye thing in the other remenāt &c. This woord hotchpot is but a terme of similitude, & is as much to say as to put the

landes

landes geeuen in frank mariage & other landes in fee simple &c. together, & this is to suche entent to accompt the value of all ỹ landes that is to say, of the landes geeuen in frank mariage & the remenaunt that was not geeuen and than partition shalbee made in this fourme that ensueth. As put case that a man sealed of. xxx. acres of lande in fee simple euerye acre in value xii.d. by the yere which hath issue. ii. daughters, and the one is couert baron, & the father geueth x. acres of the xxx. acres to the husbād with his daughter in franke mariage & dyeth seised of the remenaunt, then the other sister shall enter in the remenaunt, that is to saye in the xx. acres and shall occuppye it to her owne vse, excepte the husbande and the wife wyll put theire x. acres euen to them in frank mariage with the other xx. acres in hotchpot, that is to say togeether and then when the value is knowen of euery acre, that is to say, euery acre is yearely worth. xii.d. then the partitiō shalbee made in such forme, that is to say, that the husbande and the wife shall haue abone the x. acres geeuen to them in franke mariage x acres in seueraltie of the xx. acres and that other sister shall haue the remenaunt, that ys xx. acres of the xx. acres for her parte so that accompting the x. acres that the husbande and the wyfe had in frank mariage, and the other x acres of the xx. acres, the husbād & the wife haue as muche in yerely value as ỹ other syster hath, & so alway vpō such partitiō ỹ landes

geeuen

geeuen in franke mariage abyde to the doner
or to the heires &c. after ỹ forme of ỹ gift &c.
For if ỹ other parcener shoold haue nothig of
this ỹ is geeuē in frāk mariage, of this shood
folow an inconuenience & a thing agaīst re-
son which the law will not suffer &c. and the
cause why that lands geuen in frank mariage
shalbee put in hotchpot is this, ỹ when a man
geeueth lands and tenementes in frank mari-
age wyth hys daughter or wyth his other co-
syn, it is to vnderstand by the lawe that such
gift made by suche woordes frank mariage is
an auauncement of his daughter or of his co-
syn, and namely when the donour & his heires
shal not haue any rent nor seruyce of hym ex-
cept fealty vnto the seuerth degree be passed
&c. and for suche cause the law is that she shal
haue nothing of the other landes and tene-
mentes dyscended to the other parceners &c.
but if she wil put the tenements geuē in frāk
mariage in hotchpot as is aforesaid and if she
will not put the lands geeuē in frank mariage
in hotchpot, then shee shall haue nothing in the
remenant for this that it shalbee vnderstād by
the law that shee is sufficiently aduaunced by
whiche aduauncement shee agreeth & holdeth
her content, and the same lawe is in this mat-
ter betweene the donees in frank mariage and
the other parceners as to put in hotchpot &c.
the same lawe is betweene the heires of the
donees in franke mariage and the parceners
&c. yf the donees in frank mariage dye before

theyr aunceſtors, or before ſuche partiton &c. as to put in hotchpot &c. And note well that gyftes in franke mariage was the comon law before the ſtatute of weſtminſter the ſecound, and alway after ſo hath beene vſed and continued &c.

¶ Alſo, ſuch putting in hotchpot &c. is where landes or tenements that were geeuen in franke mariage diſcend fro the donours in franke mariage alonelye, for if the landes diſcend to the daughters by the father the donour, or by the mother the donour, or by the brother the donour or other aunceſters, & not by the donour & there it is otherwiſe, for in ſuch caſe ſhee to whome ſuche gift in franke mariage is made, ſhall haue her part as if no ſuch gift in franke mariage had been made, for this that ſhe was not auaunced by him &c. but by an other.

¶ Alſo, if a man ſeiſed in .xxx. acres of lande euery acre of euen yerely value, haning iſſue two daughters as it is afore ſaide, and geeueth of this to the huſbande of the daughter .xv. acres in franke mariage, and dyeth ſeyſed in the other .xv. acres, in this caſe that other ſyſter ſhall haue the .xv. acres ſo diſcended to her only, and the huſband and the wife ſhall not put in ſuch caſe the .xv. acres to hym geuen in frãk mariage in hotchpot &c. for this that the tenements geeuen to him in franke mariage bee of as good yeareiye value as the other landes diſcended &c.

¶ For

¶ For if the lands geeuen in franke mariage were of as geeuen value as the remnaunt, or more value, then in payne and to none entent such landes geeuen in franke mariage shalbe put in hotchpot &c. for this that shee may haue nothing of the other landes descended &c. For if shee shoold haue any parcell of ỹ other lands descended, then shoold shee haue more in yerely value, then her sister &c. whiche the lawe will not &c. And as it is saide in the cases aforesaide, of two daughters or two parceners, in the same maner & in lyke cases is, where there bee no sisters after that as the case & the matter is &c. And it is to wite, that lands and tenements geeuen in franke mariage, shall not bee put in hotchpot but with the landes discended in fee simple, or of landes descended in fee taile partition shalbee made as if no such gifte in frank mariage had been made. Also no lande shalbee put in hotchpot with other, but lands that bee geeuen in frank mariage alonely. For if any woman haue any other lands or tenements by anye other gift in the taile, shee shal neuer put such land so geeuen in hotchpot &c. but she shall haue the parte of the remenant, discended &c. that is as much as the other parcener shall haue of the same remenant.

¶ Also an other partition maye bee made betweene parceners, that varyethe from the partitions aforesayde, as yf there bee three parceners, and the youngest woold haue partition, and the other two woolde

not

not, but will holde in parcenarye that, that to the belongeth without partition. In this case if one part be allotted in seueraltie to the yongest sister after that, that shee ought to haue, then the other may hold the tenemaunt in pertenary and occupy in common without partition if they will, and suche partition is good enough. And if after the elder and middle parcener wil make partition betweene the of that that they held, they may wel doo so whē theye please. But where partition shalbee made by vyes of a writ de Participatione faciendo &c. there otherwise it is, for there behoueth it that euery parcener haue his part in seueraltie &c. More shalbe sayde of parceners in the Chapiter of Joyntenauntes, and also in the Chapiter of tenaunts in common &c.

¶ Joyntenaunters. Cap. 3.

Joyntenauntes be as a man seised of certayn landes or tenements &c. and therof hathe enfeoffed two, or three, or fower, or more, to haue and to holde to them and to their heires, or to haue and to holde to them for terme of theyr lyues, or for terme of anothers lyfe, by force of which feoffement they bee seised, such be joyntenaunts.

¶ Also if two or three disseyse another of anye landes or tenemētes to their owne vse, then the disseyloures be joyntenaunts. But if theye disseise another to the vse of one of them, then bee they no joyntenaunts, but he to whom the

vse of the dysseisin is made sole tenaunt, & the other haue nothing in the tenancy but be called coadiutors to ꝑ dysseisin &c. And note well ꝑ dysseisin is properly where a man entreth into any lads or tenemẽts where his ẽtre is not lefful, & putteth hi out ꝑ hath the fraũtenemẽt &c. And it is to wete, ꝑ the nature of iointenancy is, ꝑ he that survyueth shal haue oneiye the whole tenaũcy after such estate as he hath ꝑ iointure be continued &c. As if iij. iointenãts be in fee simple & the one hath issue & dieth, yet they that survyue shal haue ye tenemẽts whole, & the issue shall haue nothing. & if the seconde iointenãt haue issue & dye, yet the third ꝑ survyueth shal haue the tenements whole, & shal haue them in fee simple to him & to his heirs, but other wise it is of parceners. For if iij. parceners be, & before any partition the one hath issue & dieth, ꝑ that to him belongeth shal descend to his issue, & if such a parcener dye without issue, then that, that to her belongeth shall discend to her heirs, so that they shal haue this by discent & not by the survyuoure as iointenaunts haue &c. and as the survyuoure holdeth place among iointenaunts &c. in the same maner he holdethe place among them that haue lyfrente estate or possession with other of cattel reall or cattell personall. As if a lease of landes or tenementes bee made to manye for terme of yeares, he that survyueth of the lesses shal haue the tenements whole to him during the terme by force of the same lease. And if

any

any horse, or other cattell personall be geuen to many mor, he that suruyueth shall haue them to hym selfe.

¶ In the same maner it is of dettes & dutyes &c. For if an obligacion be made to many for one duty, he that suruiueth shall haue al det & so it is of all other couenauntes & contractes.

¶ Also some ioyntenauntes maye bee that maye haue ioynt estate and bee ioyntenauntes for terme of theire lyues and yet theye haue seuerall inheritaunces. As the landes be geuen to twoo menne and to the heires of their twoo bodies engendred. In thys case the donees haue ioynt estate for terme of theire two liues and they haue seuerall inheritaunce. For if the one of the donours haue issue & dye, the other that suruyueth shall haue al by the suruyuour for terme of hys lyfe. And if hee that suruyueth hath also issue, and dye, than the issue of the one shall haue the halfe of the lande, and the issue of the other shall haue the other halfe of the lande, and theye shall holde the lande betwene them in commune, and be not ioin tenauntes but tenauntes in commune. And the cause that suche donees in suche cases haue ioynt estate for terme of theire lyues, is this for this, that at the beginnyng lands were geuen to them two, whiche woordes without more saying make a ioint estate to the for terme of their liues. For if a man wil let land to another by deede or without dede, not making mencion what estate he hath, & of this maketh liuer-

ry of leyfin. In this case the lesse shall haue estate for terme of his lyfe, and so in so muche that the landes were geuen to them, they haue a ioynt estate for terme of their liues: and the cause why theye haue seuerall inheritaunce in thys, in so muche that they cannot by possibilitie haue an heire betweene them engendred as a man and a woman may haue &c. then ỹ lawe will that theire estate and theire inheritaunce shalbee suche as reason wyll after the fourme and effect of the wordes of the gifte, and that is to the heires that the one engendreth of his body by any of his wiues, and the heires that the other engendreth of hys body by any of hys wyues &c. So it behoueth by necessitie of reason that they shall haue seuerall inheritaunce. And in suche case, if the issue of one of the donees after the death of the donees dye so that hee hath no issue alyue of his body engendred, than the donour or his heire maye entre in the halfe as in his reuersion, though the other of the donees hath issue alyue &c. And the cause is for so muche that the inheritaunce be seuered &c. the reuersion in the lawe is seuered &c. and the suruiuour of the issue of the other shal holde no place to haue the whole, & so as it is sayd of males in the same maner it is where lande is geuen to ỹ females and to ỹ heyres of theire ỹ. bodyes begotten.

¶ Also if lande be geuen to two females and to the heires of one of them, thys is a good ioynture, and the one hath a freeholde, and the

other

ather hath fee ſimple, & if hee that hath the fee die he ꝑ hath ꝑ free holde ſhal haue the hole by the ſuruiuor for terme of lyfe. In ꝑ ſame maner it is where teſtes be gyuen to two, & to ꝑ heyres of the bodye of one of them engendred, the one hath free hold, & the other fee taile. Alſo if two ioyntenaunts be ſeyſed of eſtate of fee ſimple, and the one graunteth a rent charge by hys deede to another out of that, that to hym belongeth &c. In thys caſe duringe the lyfe of the grauntour, the rent charge is effectual. But after his deceaſe the rent charge is voide as to charge the land, for he that hath the land by the ſuruiuour ſhal hold al the land diſcharged. And the cauſe is, for this that he that ſurquyeth claymeth to haue the lande by the ſurviuour &c. and not by diſcent of hys felowe &c. But otherwiſe it is of parceners, for if there bee two parceners of tenementes in fee ſimple and before any partition the one chargeth, that, that to hym belongeth by his deede of a rent charge &c. and dyeth without iſſue, & that that to hym belongeth diſcendeth to the other parcener. In this caſe the other parcener ſhall hold the land charged &c. for thys that he commeth to the halfe by diſcent as heyre &c.

¶ Alſo if there be two ioyntenaunts in fee ſimple within one borough where the landes and tenementes within the ſame borough bee deuyſable by teſtament, if the one of the ſayde ioyntenauntes deuyſe that, that to hym belongeth by teſtamente &c. and dye, thys deuyſe is

voyde. And the cause is for this that no deuyse may take effect but after the death of the deuysour. And for this that by his death al the ioyntenement commeth by the lawe to his fellow that suruiueth by the suruiuour which neither commeth nor hath nothing in the lande, by the deuise but in his owne righte by the suruiuour after the course of the lawe &c. for thys cause such deuyse is voyde.

¶ But otherwyse it is of parceners seased of tenementes deuysable in suche case of deuyse, &c. Causa qua supra. Also it is commonly sayd that euery ioyntenant is seised of the land that he holdeth ioyntly &c. throughout and by all. And this is as much to saye, that he is seysed by euery parcell and by all &c. and thys is true, for in euery parcell and by eche parcell, and by all the landes and tenementes he is ioyntly seysed with fellowes &c.

¶ And if two ioyntenants be seised of certayn landes in fee simple, and that one letteth that, that to him belongeth to a straunger for terme of .xl. yeare & dyeth within the terme. In thys case after hys decease the lessee may enter and occupy the halfe to him letten during the terme &c. though the lessee neuer had possession of it in the lyfe of the lessour by force of the lesse. &c. And the diuersitie betwene the cause of the graūt of a rent charge & this case is thys. For in the graunt of a rent charge by a ioyntenant the tenauntes abyde alwey as they were afore without that, that any hath any right to haue

parcell

parcel of the tenements, but themselfe & the tenements abyde in such plyte as they were before the charge &c. But where a lease is made by a ioyntenant to another for terme of yeares &c. incontinent by force of the lease the lessee hath right in the same land, that is to say, of all that, ꝑ to his lessour belonged, & to haue that by force of the same lease during his terme &c. & this is the diuersity &c. ¶ Also ioyntenants if they will, may make partition betwene them; & the partition is good inough, but they shall not bee compelled by the lawe to doe it, but if they will make partition of theyr proper will and agreement, the partition shall stande in hys strength. P. 3. E. quarti.

¶ Also, if a ioynt estate be made of lande to the housbande and the wyfe, and to the thyrde persone, in thys case the housbande and the wyfe haue not in the lawe in theyr right but the halfe &c. And the thirde persone shall haue as much as the housbande and the wyfe hath; that is to say, the other halfe &c. And the cause is for that the husband & the wyfe bee but one person in ꝑ law, & be in like case, as if estate be made to two ioyntenants, where the one hath by force of ioynture the one halfe, & the other ꝑ other half. In the same maner is where estate is made to the husbande & the wyfe & to other two men, in thys case the housbande and the wyfe haue not but the thyrd parte, and the other two mē ꝑ other two parts &c. Cause qua supra. More shall be sayde of them touchyng

ioyntenaunce in the Chapiter of tenauntes in common, tenant per Elegit, and tenant by estatute merchaunt.

¶ Tenants in common. Cap. 4.

TEnauntes in common bee they that haue landes & tenements in fee simple, fee tayle, or for terme of lyfe &c. whych haue suche landes and tenementes by seuerall tytle, and not ioynt title, and none of them knowe that, that is seuerall to him. But they ought by the law to occupy such landes and tenements in common, and vndeuyded to take the profytes in common. And bycause that they come to such landes and tenementes by seuerall titles, and not by one selfe ioynt title, and theyr occupacion & possession shalbe by the law to be among them in common, they be called tenauntes in common; as if a manne enfeoffe two ioynttenants in fee, and the one of them alieneth that that to him belongeth, to another in fee, now the other ioyntenaunt and the alyene, bee tenantes in common, for thys that they bee seysed in suche tenementes by seuerall tytles, for the aliene commeth in the halfe by the feoffement of ioyntenaunte, and the other ioyntenaunt hath the other halfe by force of the fyrst feoffement made to hym and to hys fyrste felowe, and so they be in by seuerall tytles, and by seuerall feoffementes &c. And it is to wete, that when it is sayde in any booke that a man is seysed in fee, without more saying, it shalbe vnder-

derstande see simple, for it shall not bee vn-
erstande by such wordes in fee, that a man is
seised in see tayle, excepte that there be putte
herto such addicion, that is to say, see tayle.

Also, if three ioyntenauntes bee, and the
one of them alieneth that, that to him belong-
eth to another in fee. In this case the aliene is
tenant in common with the other two ioynte-
nantes. But yet the other two ioyntenauntes
be seised of the two parties ioyntly, & of these
two parties the surumour betwene them hol-
deth place &c.

Also, if there bee two ioyntenauntes in
fee, and the one giueth that, that vnto him be-
longeth to another in the tayle, the donee and
the other ioyntenants be tenants in common.
But if the landes be giuen to two men and
to the heyres of their two bodyes engendred,
the donees haue ioynt estate for terme of theyr
lyues, and if eche of them haue issue and dye,
theyr issues shall holde in common &c. But if
landes bee giuen to two Abbottes, as to the
Abbot of Westminster and to the Abbot of S.
Albons, to haue and to holde to them and to
theyr successours, in thys case they haue in-
tentynent at the begynninge, estate in com-
mon, and not ioynte estate. And the cause is
by thys, that euery Abbot or other soueraigne
of an house of religion before that hee be made
Abbot or soueraygne, was but a dead man in
law. And when he is made Abbot, he is as
a man personable in the lawe, all onely to pur-

chase

thase and to haue landes and tenementes and other thinges to the vse of hys house and to hys owne proper vse, as other secular may. And for thys in the begynninge of hys purchase they be tenauntes in common. And if the one of them dye, the Abbot that succeadeth shal not haue all by the survivour but the succesour of the abbot that dyeth, shall holde the halfe in common with the Abbot that survyueth &c.

¶ Also if lands be giuen to an abbot & to a secular man to haue and to holde to them, that is to say, to the abbot and his succeassours and to the secular man, to him & to his heires, they haue estate in common. Causa qua supra.

¶ Also if landes be giuen to two men to haue & to hold, the one halfe to the one & to his heires, and the other halfe to the other and to hys heyres, they be tenaunts in common &c.

¶ Also if a man seysed of certayn landes enfeoffeth another in the halfe of the same land without any speche or assignemēt or limitacion of the same halfe in seueraltie at the time of the feoffemēt, thē ꝯ the feoffee & the feoffeur shal haue ꝯ parties of ꝯ land in cōmon. And in the same maner as is aforesayde of tenants in common of lands of tenements in fee simple or fee taile. In the same maner may it be said of tenants for terme of lyfe. As the two ioyntenaunts be in fee, & the one letteth to a man ꝯ, that is to hym belongeth for terme of lyfe, and the other ioyntenaunt letteth that, that to hym belonge-

ioynge

longeth to another for terme of lyfe, these two leſſees bee tenaunts in common for terme of their liues &c.

Alſo if a man let landes to two men for terme of their liues, & the one graunteth all his eſtate of that, that vnto him belongeth to another &c then that other tenant for terme of life, and he to whom the graunt is made be tenants in cõmon during the tyme ỹ both leſſees bee alyue.

¶ And it is to bee remembred that in all other ſuche caſes though that they bee not here expreſſly named or ſpecified, if they be in like reaſon they be in like lawe.

¶ Alſo there bee two ioyntenaunts in fee, and the one letteth that, that vnto hym belongeth vnother for terme of lyfe duryng hys life & the other tenant that did not lette, be tenaunts in common. And vpon this caſe a queſtion may ryſe as this. But the caſe that the leſſour hath iſſue & dieth, leauing the other iointenant hys feloẅ, & liuing the tenant for terme of life, the queſtion may be ſuch if the reuerſion of the halfe &c. ỹ the leſſour hath, ſhal diſcende to the iſſue of the leſſour, or that ỹ other ioyntenaunt ſhall haue it by the ſuruiuour. And ſome haue ſayd in thys caſe, that the other ioyntenaunt ſhall haue the reuerſion by the ſuruiuour, and their reaſon is ſuch, when the iointenãts were ioyntly ſeyſed in fee ſimple &c. though the one of thẽ made eſtate of ỹ, that vnto him belõgeth but terme of life, & though that hee hath therof the freehold & tenement of that, that to him belongeth

by

by the leafe, yet hee hathe not feuered the fe
ſimple. But the fee ſymple abydeth to hym
toyntly as it was before. And ſo it ſeemeth
vnto them that the other toynte tenaunt that
ſurvyueth, ſhall haue the reuerſion by the ſur
uiuour &c. And other haue ſayde the contrary
and this is theyr reaſon, when one of the toyn
tenauntes letteth thys that to hym belongeth
to a nother for terme of hys lyfe, that by ſuche
leaſe the franke tenement is ſeuered from the
toynture. And by the ſame reaſon the reuerſi
on that is dependaunt vnto the ſame franke
nement is ſeuered from the toynture. Alſo if
the leſſour had reſerued to him a pearely rent
vpon the leaſe, the leſſour onely ſhal haue the
rent &c. The which is a proofe that the reuer
ſion is onely in hym, and that the other hath
nothing in the reuerſiō &c. Alſo if the tenant
for terme of lyfe were impleded &c. and made
defaut after defaut, than the leſſour ſhalbe
ly at thys receyued to defende his ryght, for
felowe in this caſe in no maner ſhall be reco
ned. Whych proueth that the reuerſion of
halfe is onely in the leſſour. And ſo by co
quens, if the leſſour dye liuynge the leſſee
terme of life the reuerſion ſhall diſcende to
heyres of the leſſour &c. and not come to the
ther toyntenant by the ſuruiuour. Ideo qu
But in this caſe if the toyntenāt that hath
franktenement haue iſſue and dye, liuyng
leſſour and the leſſee, then it ſemeth that the
ſue ſhall haue the halfe in hys demeſne as

...e by diſcent for this that the franktenement ...ape not by nature of the iointure by annexed ...a reuerſion &c. And it is certain that he that ...eth, was ſeiſed of the halfe in his demeſne ...of fee, and none ſhall haue anye iointure in ...s franktenement. Ergo this ſhal diſcend ...illes. Sed quere. But if it be thus, that ...e in thys caſe is ſuch, that if the leſſour die ...ing the leſſee, and leauing the other iointe- ...nt that hathe the franktenement of the o- ...r halfe, that the reuerſion ſhall deſcende to ...ſſue of the leſſour, then is the iointure and ...title that any of them may haue by the ſur- ...our by the right of the iointure annulled ...all vtterly deſeted for euer.

...In the laune maner it is if the ſointenaſit ...the franktenement dye, leauing ...leſſour ...the leſſee, if the lawe be ſuch that his frā- ...ement and fee that hee hath in the halfe ſhal ...nd to hys iſſue, then the ioyncture ſhalbee ...d for euer &c.

...alſo if three ioyntenaunts bee, and the one ...ſeiſeth by his deede to one of hys felowes ...e right that he hath in the land, then hath ...to whom the releaſe is made the third part ...the lāds by force of the releaſe, and hee and ...felow that holde the other .ij. partes ioynt- ...and as to the thyrd part that hee hathe by ...of the releaſe, hys holdeth the thyrd partē ...him ſelfe, and his felow in common.

...And it is to vnderſtande that ſometime a deede of ...ale ſhall take effecte and ſhal bee in vſe to

put

put the estate of hym that made the release, [illegible] hym to whom the release is made, as in [illegible] case aforesayde.

¶ And also if a ioint estate be made to the hus- band and his wife, and to a thyrde parson, [illegible] the third persō releaseth his right that he [illegible] &c. to the husband, then hath the husband [illegible] halfe that the third parson had, and the [illegible] of this hathe nothyng. And if in suche case [illegible] thyrde release &c. to the wyfe not namyng [illegible] husband in the release, then hath the wife [illegible] halfe that the thirde person had. And the hus- bande had nothing of this, but in ryght of [illegible] wife, for this that in suche case the release [illegible] enure to put the estate to hym to whom [illegible] release is made of all that, that belōged to [illegible] that made the release &c. And in some case [illegible] lease shal enure to put al the right that he [illegible] that made the release to him, to whom the re- lease is made. As a manne seysed of cer[illegible] landes and tenementes, is dysseysed by [illegible] disseisoures, if the disseisy by his dede re[illegible] all hys ryghte &c. to one of the disseis[illegible] than hee to whom the release is made, [illegible] haue and holde all the tenementes to [illegible] onelye, and put oute hys felowe of occu- pacion of it. And the cause is for th[illegible] the two dysseysoures were seysed in the [illegible] mentes by wrong by them bothe agaynst [illegible] lawe. And when one of them hathe the [illegible] lease of hym that had right to enter &c. [illegible] ryght in such case resteth in him to whom [illegible]

releaſe is made, and is in ſuche plight as if hee
hadde the right hadde entred and enfeoffed
&c. And the cauſe is for this, that heo that
before had an eſtate by wrong, that is to
ſay, by diſſeyſin, nowe by the releaſe hath a
lawfull eſtate.

And in ſome caſe a releaſe ſhall enure by
way of extinguiſhment, & in ſuch caſe ſuch releaſe
ſhal helpe the iointenauwt to whom ỹ releaſe
was not made, as well as hym to whom the
releaſe is made. And if a man be diſſeiſed, & the
diſſeiſour maketh a feoffemẽt to. ij men in fee,
the diſſeiſy releaſeth to one of the feoffours
by his dede, thã ſuch releaſe ſhal enure to
both the feoffees, for this, that the feoffees haue
title by the lawe, that is to ſay, by the feoffe-
ment & not by wrong doon to any other.

And in the ſame maner is, if the diſſeyſoure
make a leaſe to a wamne for terme of life, the
remainder ouer to another in fee, if the diſſeiſy
releaſe to the tenãt for terme of life all hys
right. This releaſe enureth as well to hym
in the remainder as to ỹ tenãt for terme of life
And the cauſe is for this, ỹ tenãt for terme
of life commeth to his eſtate by the courte of the
lawe, but for this the releaſe ſhal enure & take
place by waye of extinguiſhment of the right
that he hath releaſed to. And by this releaſe
the tenant for terme of life hath no greater eſ-
tate than he had before the releaſe made vnto
him of the right of him that releaſed is all vt-
terly extynct. And in ſo muche that ſuch

releaſe

releaſe cannot enlarge the eſtat of the ten
for terme of lyfe, it is reaſon that the re
ſhall enure to hym in the remainder &c.
ſhall be ſayde of releaſes in the Chapiter
leaſe.

¶ Alſo, if there be two parceners, and
one alyene the that vnto him belongeth to
ther, than the other parcener and the a
tenaunts in common.

¶ Alſo, tenaunts in common may bee by
of preſcription, if the one and hys aunce
or they whoſe eſtate he hath in the halfe,
holden in common, the ſame halfe with
ther tenant that hath the other halfe, and
his auncetters, or them whoſe eſtate he
as vndeuided fro time whereof noo
renneth. And dyuers other manners
make and cauſe men to bee tenaunts
nion that be not here expreſſed.

¶ Alſo, in ſome caſe tenants in common
to haue of their poſſeſſion ſeuerall aſſiſe
in ſome caſes they ſhal come in one aſſiſe
if there bee two tenants in common, and
be diſſeyſed, there ought to haue aga
diſſeyſour two aſſiſes, and not one aſſiſe
nerye of them ought to haue an aſſiſe of
halfe &c. and the cauſe is for this, for te
in common were ſeyſed by ſeuerall tytle
otherwiſe it is obiter tenantes. For if
bee ioyntenaunts and they be diſſeiſed
ſhall haue in all theire names but one
becauſe that they had but one ioint title.

¶ T

¶ Also, if there be three iointenaunts, and one releasethe to one of his fellowes all the ryghte that he hath, and after the other two be dissey-sed of the whole &c. in this case the other shall haue seueral assises in this fourme, ỹ is to say, they shall haue in bothe their names one assise of the two partes &c. for thys that theye holde the twoo partes ioyntlye at the tyme of the disseysin. And as to the thyrde parte, hee to whom the release was made, oughte to haue thereof an assise in his owne name, for thys ỹ as to the thirde parte hee is tenant in common &c. for this that he came to the thyrd parte by force of the release and not onelye by force of ỹ nature.

¶ Also, as to sue actions that touchethe the realtie, there is diuersitie betwene parceners that bee in by diuers discentes, and tenaunts in common. For if a man seysed of certeyne landes in fee, haue issue twoo daughters and dye, and they enter &c. and eche of them hathe issue a sonne and dye without partition made betwene them, by which the one halfe dyscen-deth to the sonne of the one parcener, and the other halfe descendeth to the sonne of the other parcener, and theye enter and occuppye in com-mon, if they be disseised, in this case theye shall haue their two names one assise and not two as-sises. And the cause is, that thoughe they come in by diuers discents &c. yet they be pceners, & inter eos de participatione facienda lieth betwene them. And they be not pceners hauing regarde

or respect onelye to the seysin and possession in their mothers, but they bee parceners hauing more respecte to the estate that descended from their graūfather to their mothers. For they may not bee parceners where their mothers were not parceners before &c.

¶ And so to such respect and consideracion, is to wete, as to the first discente that was in their mothers they haue a tytle in parcenary, the which maketh them parceners. And also they bee but as one heire to their cōmon ancestor, ỹ is to say, to their graundfather frō whō ỹ lād descended to their mothers. And for these causes before pticiō betwene thē &c. they shall haue one assise though they come in by seuerall discents &c.

¶ Also, if there be two tenantes in common of certaine landes in fee, and they gaue the same lande to another man in the tayle, or let it to another man for terme of lyfe, yeldyng an annuitie or certaine rent, and a pounde of peper or an hawke, or an horse, and then deny all of these seruices & after al the rent is behynde, and they distrayne for it, and the tenaunt maketh them rescous.

¶ In that case as to the Rente and the pound of peper, they shall haue twoo assises, and as to the hawke and the horse but one assise, and the cause why there haue twoo assises as to the Rente and pounde of peper, is thys, in so muche that there were tenauntes in common by seuerall tytles, and when the

made

made a gyfte in the tayle or leafe for terme of yeres &c. lauing to them the reuerſion & peldyng to them certain rent &c. Such reſeruacion is incident to their reuerſion.

¶ And for this that theire reuerſion is in common and by ſeuerall titles, as theire poſſeſſion was before theire rent, and other thynges that may be ſeuered and were to them reſerued vpon the gift or vpon the leafe whiche bee incident by the law to the reuerſion, ſuche thinges ſeuered was of the nature of the reuerſion, whiche reuerſion is to them in common by ſeuerall titles. And it behoueth that the rent of the pounde of peper whiche maye bee ſeuered is in them in common by ſeuerall tytles. And of this they ſhall haue twoo aſſiſes, and euery of them in his aſſiſe ſhal make his playnte of the halfe of the rent and of the halfe of the pounde of peper &c.

¶ But of the hawke and the horſe which cannot bee ſeuered, there ſhall haue but one aſſiſe the man may not make a plaint in aſſiſe of the halfe of an hawke or of the halfe of an horſe &c. In the ſame maner it is of other rentes & ſeruices that tenaunts in common haue in groſſe by diuers titles.

¶ Alſo as to actions perſonelles, tenauntes in common ought to haue ſuche actions perſonels ſouuitye in all their names, that is to ſaye of Treſpas or of offences that touche theire tenauntes in common. As of breakyng of their howſes, breakyng of theire cloſes and

pastures wastyng & defoulyng of their grass, cuttyng of their woode, and to fysshe in their pondes, and such other. In this case tenaunt in cõmon shal haue one action ioyntlye and recouer ioyntly dãmages because that the action is in the personaltie and not in the realtie.

¶ Also if two tenauntes in common make a lease of theire two tenementes to another for terme of yeres yelding vnto thẽ yearely a certaine rent if the rent be behinde &c. the tenaunt shall haue one action of dett agaynste the lessee and not diuers actions, for that the action is in the personaltie.

¶ Also tenauntes in common may make partition betwene them if theye wyll, though they shal not bee compelled by the lawe. But yf they make partition betwene them by their agreement and assent, such partitiõ is good ynough, as it is adiudged in the booke of assise. 7. E. 4.

¶ Also as there be tenauntes in common of landes or tenementes &c. as is aforesayde. In the same maner there bee possessions and properties of chattel real and chatel personall. As if a lease bee made of certayne landes to two men for terme of xx yeares, and whan they be thereof possessed, the one of the leases graunteth that, that vnto him belõgeth before the terme to another, than he to whõ the graunt is made and the other shal hold and occupy in common.

¶ Also if two iointenauntes haue the wardes of the bodye & of the landes of the chylde [illegible]

ere and that one of them graunteth to another that, that vnto him belōgeth of the same ward then the graūtee and the other that graunteth not, shal haue and holde it in common &c.

¶ In the same maner it is of chatels perso-nals as if two haue a ioynte estate by gyfte or by dying of an horse or an Oxe &c. the one of them graunteth that, that to hym belongeth of the same horse or oxe &c. Then the graunte &, he that graunted not shall haue and possesse suche chattell parsonell in common &c. And in such cases wher diuers persons haue chattels reals or parsoneis in cōmon and by diuers ty-tles, if the one of them dye, the other that sur-viueth shall not haue that by the suruiuour. But the executours of hym that dyeth shall take and occupy that with him that suruiueth as their testatour dyd or ought in hys lyfe. &c. for thys that theyr titles and tyght in thys case were seuerall.

¶ Also in thys case aforesayde if two haue estate in common for terme of yeres, & the one occupy all and put the other out of hys possess-sion and occupacion, then shall hee that is put out of occupacion haue agaynste that other a writte de Ejectione firme for the halfe agaynste the other. In the same maner it is where two ioynte the warde of landes or tenementes du-ryng the nonage of a chylde, if one put out the other of his possession, he that is out shal haue Lawyte of Ejectment de garde of the halfe in thys that those thynges be chattels reals,

and may be apportioned and seuered &c. But no such action of trespas, that is to say. Quare clausum suum fregit & herbam suam conculcauit & consumpsit &c. And such lyke actions the one may not haue agaynst the other, for that that eche of them may enter and occupy in common, &c. throughe and by all the tenements whych they holde in common. But if two be possessed of chatels personels in common by seuerey titles, as of an horse, or an oxe, or a bowe if the one take it all to himselfe out of the possession of the other, the other hath none other remedy but to take this of hym that hath done to hym the wronge for to occupy in common whan he may see his time.

¶ In the same maner it is of chattel reall they may not be seuered as the case aforesayde is bee possessioners of a warde of the bodye of a childe within age, if one take the childe out of the possession of the other, the other hath no remedy by any action by the lawe, but to take the childe out of the others possession whan he seeth hys time. &c.

¶ Also when a man in pleadyng wyll shewe a deede of feoffement made vnto hym, or a gyft in the tayle, or a lease for terme of lyfe of any landes or tenements, there he shall say by vertue of which feoffement, gifte or lease he was possessed &c.

But where a man will plede a lease or a gyft made vnto him of a chatel real or personel, there he shal say per force of which he was possessed.

Now

shore shalbe sayde of tenauntes in common in the Chapter of Releases, Confirmacions, and tenaunts per Elegit.

¶ Estates vpon a condicion. Cap. v.

¶ Estates ỹ men haue in landes or tenementes be in two maners. That is to say, they haue estate vpon condicion in deede, or vpon condicion in lawe. ¶ Vpon condicion in deede, is as a man by dede endēted enfeoffeth another in fee, reseruing to him & to hys heyres yerely a certain rent payable at one feast or at diuers feastes by yere, vpon condicion ỹ if the rent be behynd &c. that it shalbe lawfull to the feoffour & to hys heyres to enter into the landes or tenementes &c,

¶ Or if the landes be aliened to another in fee to yelde vnto hym certayne rent &c. And if it hap that the rent be behynde by a weeke after the daye of payment of it, or by a moneth, or by halfe a yere after any day of payment, that then it shalbe lawfull to ỹ feoffour and to hys heyres to enter &c.

¶ In this case if the rente bee not payde at such a tyme or before such a time ymitted and specified within the condicion comprised in the indenture, thē may ỹ feoffour or his heires enter into suche landes or tenemēts, & them in his first estate to haue and to holde, and of thys is parte the feoffee clayme oute, and it is called estate vppon condicion, for thys that the

eſtate of the feoffee is defenſable if the condicion be not perfoꝛmed.

¶ In the ſame maner it is if landes bee gyuen in the tayle, oꝛ let foꝛ terme of lyfe, oꝛ in terme of yeares, vpon ſuch condicion &c. But where a feoffement is made of certayn lands, reſeruinge certayn rente vpon ſuch condicion, that if the rent be behinde, that it ſhalbe lawful to the feoffour and to his heyꝛes to enter, the lande to holde tyll they be ſatiſfyed oꝛ payd of theyꝛ rente behynde &c. In thys caſe, if the rent be behynde, and the feoffour and hys heyꝛes enter, the feoffee is not excluded clean out: But the feoffour ſhall haue and holde the lande and take the pꝛofites tyll that he be ſatiſfied of the rent behinde. And when he is ſatiſfyed, the feoffe may reenter in the ſame land and holde it as he did befoꝛe, foꝛ in ſuche caſe the feoffour ſhall haue it, but in maner foꝛ a dyſtreſſe in the meane time, till he be ſatiſfyed of the rent &c. though hee take the pꝛofytes in the meane time.

¶ Alſo dyuers woꝛdes among other there be, that by vertue of theſelfe make eſtate vpon condicion. One is this woꝛde of condicion, as A. enfeoffeth B. of certayne lande to haue and to holde to the ſame B. and hys heyꝛes vpon condicio̅ that the ſame B. and hys heyꝛes ſhall pay oꝛ doe to bee payde to the foꝛeſayde A. and to his heires yeerly ſuch rẽt &c. In theſe caſes without any moꝛe ſaying the feoffee hath eſtate vpon condicion. Alſo if the condicio̅ were

ſuch

such. Prouided alway that the aforesayde B. pay or doe to be payde to the aforesayd A. such rent. Or if they were thus, so ỹ the aforesayde B. pay or doe to be payde such rente. In these cases without any more saying, ỹ feoffee hath estate but vpon condicion, so ỹ if he performe not the condicion, the feoffour and hys heyres may enter &c.

Also other wordes there bee in a deede that causeth the tenauntes to be condicionels, as vpon such a feoffement a rente is reserued to the feoffour &c. and after it is put in deede that if it chaunce the aforesayde rent to be behynde in parte or in all &c. that then it shalbe lawfull to the feoffour and to his heyres to enter. And this is a dede vpon a condicion. But there is diuersitie betwene the woordes if it chaunce, &c. and the wordes next aforesayde. For this woorde if it chaunce &c. is nought woorth to suche condicion, but if it haue these woordes following, that is to say, that it shalbe lawfull to the feoffour and to hys heyres to enter &c. But in these cases aforesayde, it nedeth not by the lawe to put such clause, that is to say, that the feoffour and hys heyres maye enter &c. for this that they maye so doe by force of the woordes aforesayde, bycause they conceyue in themselfe in the lawe a condycion, that is to saye, that the feoffour and hys heyres maye enter. Yet it is commonly in all suche cases aforesayde, to putte suche clauses in the deedes, that is to saye, if the rent bee behynde

hynde &c. ℣ it ſhalbe lawfull to the ſame feoffour and his heyres to enter &c. And thys is well done to that entent for to declare and expreſſe to the lay men that be not learned in the law, the maner and the condicion of the feoffement &c. As a man ſeyſed of land as of franketenement, let the ſame land to another by dede endēted for terme of yeres, yeldyng vnto hym certayne rent, it is vſed to put in the deede, ℣ if the rent be behynde at the daye of payment by a moneth &c. That then it ſhalbe lawful to the leſſour to diſtrayne &c. and yet the leſſour may diſtrayne of common right for the rent behynd &c. though ſuch wordes neuer were ſette in the deede &c.

¶ Alſo if any feoffement be made vpon ſuch condicion, that if our feoffour pay at a certain daye &c. xx. li. of money, that then the feoffour may enter &c. In this caſe the feoffee is called tenaunt in mortgage, that is as muche to ſaye in frenche as mortgage, and in latine mortuum vadium, and in Engliſh a dead pledge. And it ſtemeth that the cauſe why it is called mortgage, is for that it ſtandeth in doubte if the feoffour may pay at the day limited ſuch a ſumme or not, and if he pay not, then the londe that is put in pledge vpon condicion for the payment of the money is gone from him for euer, and is dead as to the tenaunt &c.

¶ Alſo as a man may make a feoffement in fee in mortgage, ſo may a man make a gyfte of the ſayde in mortgage, and a leaſe for terme

of

of life or for terme of yeares in mortgage. And all such tenauntes bee tenauntes in mortgage after the state that they haue in the landes, &c.

¶ Also if a feoffement be made in mortgage vpon condicion that the feoffour shall pay such a summe at such a day &c. as is betwene them by theyr deede endented accorded and limitted though the feoffour dye before the day of payment &c. yet if the heyre of the feoffour pay the same summe within the daye to the feoffee, or proffer him the money, and the feoffee refuseth to receyue it, then may the heyre enter into the lands. And yet the condicion is, if the feoffour pay such a summe at such a day &c. and not making mencion in the condicion of any payment to bee made by hys heyre, but for this that the heyre hath interest of right in the condycion &c. and the intente was but that the money should be payd at the day set &c. and the feoffee hath no more damnage to be payd by the heire then though hee were payde by the father &c. by thys cause if the heyre pay the money or tender the money at the day sette &c. and the other refuseth it, hee may well enter. But if a straunger of hys owne heade that hath no interest &c. would tende and pay the money at the day set, then the feoffee is not bounde to receiue it &c.

¶ And it is to bee had in mynde that in such case where such lawfull tender of the money is

is made and the feoffour refuseth to receiue it, wherefore the feoffour or his heyres doe enter &c. then the feoffee hath no remedy to haue the money by the common lawe, for this ꝯ it shall bee arected his owne follye that he refused the money when lawfull proffer was made of it vn to him &c.

¶ Also, if a feoffement be made in such condicion, that if the feoffee pay to the feoffour at such a day betweene them limitted xx.li. ꝯ then the feoffe shal haue the land to him and to hys heires, and if he fayle to paye the money at the day &c. ꝯ then it shalbe lawfull to the feoffour or to his heyres to enter &c. and if after beinge the day set, the feoffe selleth ꝯ land to another, and therof maketh a feoffement vpon hym, in this case if the second feoffe will tende ꝯ summe of hys money at the day set to ꝯ feoffour, & the feoffour refuseth it, &c. then hath the second feoffe estate in the land clerely without condicion. And the cause is for that ꝯ second feoffe had interest in the condicion for saluacion of his tenaunce. And in this case it seemeth that if the fyrst feoffe after such sale of the land will tende the money at the day set &c. to the feoffour, that shall bee good though for the saluacion of the estate of the second feoffee, for thys that the fyrst feoffee was priuy to the condicion, and so the tender of anye of them is good inough. &c.

¶ Also if ꝯ feoffement be made vpō condicion that if ꝯ feoffour pay a certayn summe of money

the feoffee, that then it shalbe lawfull to the feoffour and to his heyres to enter &c. In this case if the feoffour dye before the daye of payemente, and the heire will tender to the feoffee the money, suche tender is voide, for this that the time within which the tender ought to bee made is past, For when the condicion is, that if the feoffour pay the money to ỹ feoffee, thys is as muche to say, that if the feoffour duryng his lyfe paye the money to the feoffee &c. And when the feoffour dyethe, then the tyme of the tender is past, But otherwise it is, where a day of payment is limytted, and the feoffour dieth before the day then may the heire tender the money as it is aforesayde, for this at the tyme of the tender was not past by the death of the feoffour. Also it seemeth in such case where the feoffour dieth before ỹ day of payment if ỹ executours of the feoffour tender the money of ỹ feoffee at the day of paiemt, the tender is good enough. And if the feoffee refuse this ỹ heires of the feoffour may enter &c. And the cause is for this that the executours represent the person of their testator &c. And note well that all suche cases of condicion of payment of certain time in grosse, touching landes or tenementes if lawfull tender be once refused, he ỹ ought to pay the money is thereof assoyled and cleerelye discharged for euer after.

Also if the feoffee in mortgage before ỹ daye of paiemt that shalbe made vnto him make his executors ỹ dye, ỹ his heire entreth into ỹ land

as

as hee ought. It semeth in this case ỹ the feoffour ought to pay the money at the day set to the executours, & not to the heire of the feoffee for this that the money at the begynnyng delyuered to the feoffee in maner as a dutie. And shalbee vnderstande that the estate was made because of borowing of the money of ỹ feoffe, & because of another dutie. And for this ỹ payment shal not be made to the heire of the feoffee as it seemeth. But the wordes of the condicion may be such, ỹ the payment shalbee made vnto the heire as if the condicion were ỹ the feoffour pay to the feoffe or to his heires such a summe at such a day &c. There after the deathe of the feoffe if he dye before the day limitted, thē the paymēt ought to be made to the heir at the day set &c.

¶ Also in such case of a feoffemēt in mortgage a question hath been demaunded in what place the feoffour is bound to tēder the money to the feoffee at the day set &c. And some haue sayde that vpon the lande so holden in mortgage by thys that the condicion is dependant vpon the lande, and they haue sayd ỹ if the feoffour be ready vpon the lande to paye the money at the least or daye set, and the feoffee bee not at that tyme there, that then the feoffour is excluded & discharged of payment of the money, for this ỹ no defaut was in him, but it seemeth to some men ỹ the law is cōtrary, & ỹ defaut is in him. For he is bound to seeke the feoffe if he be then at any time in any maner of place within the

realme

realme of England. As if a man be bounde in an obligacion of .xx.li. vpon condicion endorsed vpon the obligacion, that if he paye to hym to whom the obligacion is made at such a daye &c. ỳ then ỳ obligacion of xx.li. shal lose his force & shalbe holden for naught. In this case it behoueth him ỳ made the obligacion to shewe him to whom the obligacion is made, if he be within England, and at the day set, to tender to him the sayde x.li.&c. And otherwise he forsaythe the same of .xx.li. comprised within the obligacion, and so it seemeth in the other case &c. And though that some haue said ỳ the condicion is dependaūt vpon the lande, yet this is not moued ỳ the releasunce of the condicion to bee performed ought to be made vppon the land &c. No more then if the condicion were ỳ the feoffour should doo at such a daye &c. an especyall corporall seruice to the feoffee not namyng the place where the corporall seruices should bee doon. In this case the feoffor ought to do such corporall seruice at the day limete to the feoffee in whatsoeuer place in England that the feoffee wil if he will haue aduauntage of the condicion &c. And so it seemethe in that other case. And it seemethe to them that it shallbee more properlye sayde that the estate of the lande ys dependaunt vppon the condicion &c. which is as much to say, that the condicion is dependaunt vpon the sayde &c. but enquicre &c.

¶ But if a feffement in fee be made, reseruyng

vpng to the feoffour an annuel rent, and for de
faut of paymēt, a reentre &c. in thys case it ne-
deth not to the tenant to tender the rent when
it is behynde, but onelye vpon the lande, for
this that thys is a rent going out of the lande,
for this is rent secke. For if the feoffour be
once seysed of this rent, and after he commeth
vpon the lande &c. and the rent is denyed hym
&c. he may haue an assise of nouel disseisin, for
though he may enter because of the condicion
broken, yet he may choose, that is to say, to en-
ter or to haue an assise. And so is there diuer-
tie as to the tender of the rente that is going
out of the land, and of tender of another sume
in grosse which is not going out of any lande.
And therefore it shalbe sure and a good thyng
for them that will make suche feoffements in
morgage, to put and set a speciall place where
the money shalbe payde. And the more speci-
all that it is put, the better it is for the feoffor.
As if A. enfeoffed B. to haue to hym and to
hys heires vpon suche condicion, that if A.
paye to B. in the feast of saint Michaell the
archangel next cōming in the cathedral church
of S. Paul of London, within .4. hours next
before the howre of noone of ỹ same feast at ỹ
roode loft of the North doore within the same
churche or any other certayn place within the
same churche, that than it shalbe lawefull to ỹ
forsayde A. and to hys heires to enter &c. In
suche case it needeth not to seeke the feoffee in
anye other place but in the place comprysed

in the

in the indenture not to bee there more longer tyme then the tyme specified in the same indēture, for to render or pape the money to the feoffee.

¶ Also in suche case where the place of payement is limite, the feoffee is not bounde to retinue the payment in none other place, but in the place so limitted. But yet if he receiue the payēt in any other place, this is good ynough and as strong for the feoffour, as if the reseit had be in the place so limitted &c.

¶ Also in this case of feoffement in morgage, if the feoffour pay the feoffee an horse or a cup of siluer, or a ring of golde, or any other suche thing in full satisfaccion of the money. and the other this receiueth, this ys good ynough, and as strong as if hee had receiued the summe of money, though the horse, or anye of the other thynges bee not the twentye parte worth in value of the summe of money, for thys that the other hath accepted it in playn and full satisfaccion.

¶ Also if a man enfeoffe an other in fee vppon condicion that hee and his heires shall yelde to a straunger and his heires a yearelye rent of xx.s. and if hee and his heires faile of payement of this, that then it shalbee lefull to the feoffour and to hys heyres to enter, thys ys a good condicion. And yet in thys case thoughe suche a yearely rent bee called an annuel rent, this is not properly a rent, for if it shalbe rent, taught to bee rent seruice, rent charge, or rēt seck, & yet it is none of them, for if the straun-

ger were sealed of this & after it were to him denyed, hee shall neuer haue assise of thys, for this that it issueth not out of any landes, and so the straunger hath no remedy if anye suche yerely payment bee had behynde in this case, but that the feoffour and his heires maye enter &c. and yet if the feoffour and his heires enter for defaulte of payment, then suche rent is goone for euer. And so such rent is but a payement set to the tenaunt and to his heires, that if they will not pay thys after the fourme of ỹ indenture that they shall leale theire land by the entre of the feoffour or his heires for defaute of payment. And in this case it seemith that the feoffee and hys heires ought to seeke the straunger and his heirs if they bee in Englande, because that no place is limitted wher the payement shalbee made, and because that such rent is not goyng out of any land &c.

¶ And here note well. ii. thinges, one is that no rent that is properly sayde rent may be reserued vppon any feoffement, gift or lease, but only to the feoffour or to ỹ lessour or to theyr heirs & in no maner maye bee reserued to anye strange person. But if. ii. ioyntenantes make a lease by deede indēted, reseruing to ỹ one a certayn yerely rent, that is good enough to hym to whome the rent is reserued, for this that he is priuie to the lease and not a stranger to this &c. The second thing is, that no entre or reentre which is all one, may be reserued nor geuen to anye persone, but onelye to the feoffour or

or to the donour or to the lessour, or to theire heires, and such entre may not be altered nor graunted to any person. ¶ For if a man let lande to an other for terme of lyfe by indenture, yelding to the lessour & to his heirs a certein rent, and for default of payment a reentre &c. if after the lessour by a deede graunt the reuersion of the lande to an other in fee, and the tenaunt for terme of lyfe attorneth &c. if ỹ rent after be behynd the grantee of the reuersion maye distraine for the rent, for this that the rent is incident to the reuersion, but hee may not enter into the land & put out ỹ tenaunt as the lessour might or his heires if the reuersion had beene continued in them &c. And in this case the entre is taken away at all tymes, for the grantee of the reuersion may not enter Causa qua supra. And the lessour nor his heires may not enter, for if ỹ lessour may enter, then he ought to bee in his first estate &c. and that maye not be, for this that hee hath from him the reuersion &c.

Also if there bee lorde and tenaunt, and the tenant make such a lease for terme of lyfe, yelding to the lessour and to his heirs such yerely rent, and for defaut of payemẽt a reentre &c. after the lessour dye wythout heire, during the state of the tenaunt for tearme of lyfe, by whiche the reuersion commeth to the Lorde by waye of eschete, and after the rent of the tenaunt for terme of lyfe is behynde, the Lord may distraine the tenaunt for the rent behynd, but hee may not enter into the land by force of

the condicion &c. for this that hee is not heire to the feoffour &c.

¶ Also if land bee granted to a man for terme of yeares vpon a condicion, that if he pay to ỹ grauntour within two yeres, xl. markes, that then hee shall haue the land to him and to hys heires &c. In this case, if the grauntee enter by force of the graunt, and after hee payeth to the grauntour xl. markes within the. ii. yeres yet hee hath nothing in the lande but for terme of the two yeares, for this that no liuerye of seisin was to him made at the beginning, for if hee had had franktenement & fee in this case because hee hath performed the condicō, he shoold he haue franketenement by force of the first graunt where no liuerye of seisine was made thereof, which shoold bee against reason &c. But if the grauntour had made liuerye of seisine to the grauntee by force of the graunt, then hath the grauntee the franktenement & the fee vppon the same condicion.

¶ Also if landes bee graunted to a man in terme of fyue yeares, vppon condicion that hee pay to the grauntour within the first two yeare xl. markes that then hee shal haue fee or els but for terme of the fyue yeres, and liuery of seisin is made to hym by force of the grant, so hee hath in fee simple condicionel &c. if in this case the grauntee pay not to the grauntour the xl. markes within the same two first yeres than immediatly after ỹ same two yeres the fee and the franktenement is and shalbee adnuged to the grauntour, for thys that the

graun-

grantour may not after the two yeres incontinent enter vppon the grantee, for thys that the graunt ee hath yet tyme by three yeares to haue and to occupy the land by force of ỹ same graunt. And so for this, that the condicion of parte of the graunte is broken and the graun-tour may not enter, the law shall put the fee in franktenement in the grantour. For if ỹ gran tour in this case made waste then after the breaking of the condicion &c. and after ỹ two yeares the grauntour shall haue his writte of waste, and this is a good proofe that the reuer-sion is to him &c. But in suche case of feoffe-mentes vppon condicion where the feoffour may enter lawfully for the condicion broken there the feoffour hath the franktenement before the entre &c.

Also if a feoffement bee made vppon suche condicion that the feoffee shal geeue ỹ land to the feoffour, and to the wife of the feoffour, for terme and to hold to them and to the heyres of theire two bodyes engendred, and for de-faute of suche issue, to remayne to the right heires of the feoffour. In this case if the hus-band dye, liuing the wyfe before estate in the lande made to hym, than ought the feoffee by the lawe to make estate to the wyfe, as lyke to the condicion, and as like to the entent of the condicion as hee maye make it, that is to saye, to let the lande to the wife for terme of yeres without impechement of waste, the re-mayndre after her decease to the heyres engen-dred of the body of her husbande and hers, and

for default of ſuche iſſue, the remainder to the ryght heires of the huſband.

¶ And the cauſe why the leaſe ſhalbee made in this caſe to the woman ſole wythout impechement of waſte is for this that the condicion is, that the ſtate ſhalbee made to the huſband and his wyfe in the tayle. And if ſuch eſtate had bee made in ỹ life of the huſbande then after the death of her huſband, ſhee had eſtate in the taile ſole, whiche eſtate is wythout impechement of waſte, and ſo it is reaſon that yf after a man maye make eſtate to the intent the condicion &c. ỹ hee ſhall make it &c. thenne that ſhee cannot haue eſtate in the taile, as he myght haue had, yf the gyfte in the taile had be made to the huſbande, and to her in the lyf of her huſband &c.

¶ Alſo in this caſe if the huſbande and ỹ wife haue iſſue, and dye before the gifte in the tayle made vnto hym &c. then ought the feoffee to make eſtate to the yſſue and to the heires of the father, and mother engendred, & for default of ſuche iſſue &c. the remainder to the ryght heires of the huſband &c. And the ſame law is in other caſes ſemblable. And if ſuch a feoffee will not make ſuche eſtate when hee is reaſonably required by them ỹ ought to haue eſtate by force of the condicion &c. Then may ỹ feoffour & his heirs enter &c.

¶ Alſo if a feffement bee made vppon condicion that the feoffee ſhall enfeoffe manye men, to haue and to holde, to them and to theyre heyres for euer, and all they that ought to

haue

haue eſtate, dye before anye eſtate made vnto them, then ought to feoffee the make the eſtate to the heirs of him that ſurvyue of the to haue and to holde to him, and the heires of him that ſurvyued &c.

¶ Alſo if a feoffement bee made vpon condicion to enfeoffe an other, or to geeue in the taple to an other &c. if the feoffee before the perfourming of the condicion enfeoffe a ſtraunge perſon, or make a leaſe for terme of lyfe, then may the feoffour or his heires enter &c. for thys, that hee hath diſſabled him ſelfe to perfourme the condicion, in ſo muche that he made eſtate to an other &c. In ſuche maner it is, if the feoffee beefore the condicion perfourmed, let the ſame lande to a ſtranger for teare of yeres. In thys caſe the feoffour or his heires maye entre &c. for this that the feoffee hath diſſabled hymſelfe to make eſtate of the tenementes accordyng to that, that was in the tenementes when eſtate thereof was made vnto him, for yf hee will make eſtate according to the condicion &c. then may the feoffee for terme of yeres enter and put out him to whome the eſtate is made &c. and to occupy this during his terme. And many haue ſaid, that if ſuche a feoffement bee made to a man ſole vppon the ſame condicion, & before that hee hath perfourmed ỹ condicion hee taketh a wife, then the feoffour or hys heire may incontinent enter, for thys that if he hath made eſtate according to the condicion, and after dyeth, hys wife ſhalbee endowed and may recouer her dower by a writte of

dower &c. And so by taking of a wyfe, the tenementes bee put in an other plyte then they were at the tyme of the feoffement vpon condicion, for this that no suche woman was dowable nor shoold bee endowed by the lawe &c.

In the same maner it is, if the feoffour charge the lande by his deede of rent charge beefore performing of the condicion, or be bounde in a statute staple, or statute marchaunt, that in such cases, the feoffour and his heirs may enter, Causa qua supra. For whosoeuer cometh to the tenements by the feoffement of the feoffee, then the tenementes must bee lyable and bee putt in execution by force of the statute aforesaide. But when the feoffour or his heires for the cases aforesaide haue entred so as they ought as it seemeth &c. Then all such thinges that beefore suche entre may trouble or encomber the tenements so geeuen vppon condicion, as touching the same tenements bee vtterly defeted &c.

¶ Also if a man make a deede of feoffemēt to an other, and in the deede is no condicion &c. And when the feoffour will make to hym liuery of seisine by force of ỹ same deed, he maketh liuery of seysin vppon certein condicions &c. In this case nothing of the tenements passeth by the dede, for this ỹ the condicion is not compriled in the deede, & the feoffement is of suche force, as if no suche deede had ben made therof &c.

¶ Also if a feoffement bee made vpon such condicion, that the feoffee shall alien the land to a man

man, this condicion is voide, for thys, that when a manne is enfeoffed in landes or tenementes, hee hath power to alien them to some person by the law. For if such cõdicion shoold bee good, then the condicion putteth hym out of all the power that the law geeueth, which shoold bee against reason, and for this, suche condicion is voide. But if the condicion bee such, that the feoffee shall not alien to one such naming his name, or to anye of his heires or his issues &c. or such other lyke, the which cõdicion taketh not away all the power of alyenation of the feoffee &c. than suche condicõ ys good.

Also if tenementes be geeuẽ in ỹ taile, vpon suche condicion that the tenaunt in the tayle, or his heires &c. shall not aliene in fee nor in taile, nor for terme of others lyfe, but for their owne lyues &c. suche alyenation and condicion is good. And the cause is for thys, that when hee maketh such alyenacion and discontinuance, hee dooth contrary to the entent, for whyche the statute of Westminster the seconde was made, by whiche estatute, the estates in the taile bee ordained, for it is prooued by the wordes compryzed in the same estatute, that the entẽt of the making the same estatut was that the wil of the donour in such cases shoold bee obserued. And when tenant in ỹ taile maketh such discontinuance, hee dooth the cõtrarye that &c. And also in estates in the tayle of any tenementes when the reuersion of ỹ fee simple is in another ꝑson whẽ such discõtinuance

unce is made, then the fee simple in the reuersion, or the fee simple in the remainder is discontinued, and for to put out that ỹ tenaunt in the taile shall doo no such thing agaynst right such condicions is good, as it is aforesaid &c.

¶ Also a man may geeue land in the taile vpō such condicion, that if the tenaunt in the tayle or his heirs aliene in fee, or in taile, or for terme of an others lyfe &c. And also that if all the issues comming of the tenaunt in the tayle, be dead without issue, that then it shall be lefull to the donour & to his heires to enter &c. And by suche waye the right of the tayle maye be saued after such discontinuaunce to the issue the taile if there bee any, so that by way of entre of ỹ donour or of his heirs ỹ taile shall not bee defeted by such condicion, & yet if ỹ tenant in the taile in this case, or his heires make any discontinuance &c. hee in ỹ reuersion or his heires after this that ỹ taile is determined for default of issue &c. maye enter into the landes by force of the same condicion, and shall not be dryuen to sue a writte of Formedon in the reuersion.

¶ Also if a man may not pleade in any action that estate was made in fee, in the tayle, or for terme of lyfe vppon condicion, but if he vouch a record therof, or shew a writing vnder seale prouyng the same condicion, for it is a commō erudicion & lerning, ỹ a man by pleading shal not defete any estate of frank tenemēt by force of any such condicion, but if hee shew ỹ proofe of such condicion in writing &c. except it be in some

some especiall cause, but of chatels reals as of a lease made for terme of yeares, or of grantes of woodes made by wardens in chiualry, & of such other &c. A man may plede that such gifts & graunts were made vpon condicion &c. Without shewing of anye writing of condicion & in the same maner a man maye doo of giftes and graunttes of chatels persones and of cõtracts personels &c.

¶ Also though that a man in some accion may not plede an accion that toucheth and concerneth franktenemẽt wythout shewing of writing thereof, as it is aforesaid, yet a man maye be holpen vppon suche condition by the verdite of twelue men taken at large in Assise of disseisine, or in some other accion where ỹ iustices will take the verdite of the twelue iurors at large. As put the case that a man seised of certein land in fee, letteth the same lande in terme of lyfe, without deede vppon condicion to yeld to the lessour a certeine rent, & for default of payement a reentre &c. by force of whiche, the lessour is seised as of franktenement and after the rent is behinde, by whyche the lessour entreth into the lande, and after the lesse arraigneth an assise of Nouel disseisin of ỹ land against the lessour ỹ which pleadeth that her doth no wrong, ne no disseisin, & vpon this the assise is taken.

¶ In this case the recognitours of the assise may say & yelde to the iustices theire verdit at large vppon all the matter, as to saye that the de-

defendaunt was ſeiſed, and ſo ſeiſed, let the ſame land to the pleintife for terme of his life, to yelde to the leſſour ſuch annuel rent payable at ſuche a feaſte and vpon ſuch condicion that if the rent bee behind at any ſuch feaſt that yt ought to bee paide, that then it ſhalbe lawfull to ỹ leſſour to enter &c. by force of which leaſe the pleintife was ſeiſed in his demeſne, as of franktenement, and after the rent was behynd at ſuch a feaſt in ſuch a yere &c. for which the leſſour entred into the land vppon the poſſeſſion of the leaſe, and payeth the diſcretion of the iuſtices if this bee a diſſeiſine don to the pleintife or not. And than for this that yt appeareth to the iuſtices, that this was no diſſeiſin doone vnto the pleintife, in ſo muche that the entre of the leſſour was lawfull vppon him, the iuſtices ought to geue iudgemẽt, that the pleintife ſhall take nothing by hys writ of aſſiſe. And ſo in ſuch caſe the leſſour ſhalbe holpen, and yet no writting was neuer made of the condicion, for as well as the iurrours may haue knowledge of ỹ condicion that was declared and rehearſed vppõ the leſſee, In the ſame maner is of feoffement in fee, or in gyft in the taile vppon condicõ, though neuer writting were made thereof &c. And as it is ſaide of a verdite at large in aſſiſe &c.

¶ In this ſame maner it is of a writte of entre founded vppon diſſeiſin, and in al other actions where the iuſtices will take a veredyt at large there where the verdite at large maketh the nature of the matter put in the iſſue.

¶ Alſo

¶ Alſo in ſuch where ỹ enqueſt may ſay their verdite at large, if they will take vppon them the knowledge of the lawe vppon the matter, they may ſay theire verdit generall as it is put in their charge, as in the caſe afore ſayde they may well ſay that the leſſour diſſeiſed not the leſſe if they will &c.

¶ Alſo in the ſame caſe, if the caſe were ſuche, that after this that the leſſour had entred for defaut of payement &c. that the leſſee had entred vppon the leſſour, and hym diſſeiſed. In this caſe if the leſſour arrayeneth an aſſyſe againſt the leſſee, the leſſe maye barre hym of hys aſſiſe, for hee maye plede agaynſte hym in barre, howe the leſſour that is plaintyfe made a leaſe to the defendaunt for terme of lyfe, ſaving the reuerſion of the pleintife, the which is a good plee in barre, in ſo much ỹ he knowledgeth the reuerſion to bee to the pleintif, and in this caſe hath no matter to helpe hym, but the condicion made vppon the leaſe, and that he may not pledge, for that he hath no wrytynge, and in ſo muche that hee may not aunſwere to the barre, he ſhalbe barred. And ſo in this caſe he maye ſee that a man is ſeiſed and hee ſhall haue no aſſiſe. And yet if the leſſee be pleintife, and ỹ leſſour defendant, hee ſhal barre ỹ leſſee by verdit of the aſſiſe. But in this caſe where the leſſe is defendaunt, if hee will not pleade the ſaid plee in barre, but plead no wrong nor diſſeiſin ỹ the leſſour ſhall recouer by aſſiſe &c. Cauſa qua ſupra.

¶ Alſo becauſe ſuch condicions be moſt commonly

monly put & specified in deedes endented, some lyttle thing shalbee said here to thee my sonne of indentures & of a deede poll cõteining cõditions. And it is to weete that if the indenture be bipertite or tripartite or quadripartite, al ỹ parties and the indenture bee but one deede in the law, and euery party of the indenture is of him self of as great force and effect, as all the parties together. And ỹ making of indentures is in two maners. One is to make them in the third person, an other maner is to make them in the first persone. The making in the thyrde person, is as in such forme. This indenture made betweene A. of B. of the one part, & C. of D. of ỹ other parte, witnesseth that the sayd said A. of B. hath geeuen and graunted & by this present deede indented, hath confirmed to the foresaide C. of D. such lande to haue &c. vpon the condition &c. In witnesse whereof ỹ parties beforesaide interchangeablye haue put to their seales, or els thus. In witnes whereof to one party of this indenture remaining with the saide C. or D. the foresaide A. of B. hath put to his seale, and to the other parte of ỹ said indenture remaining with the said A. of B. ỹ saide C. of D. hath put to his seale geeuen &c. Suche indentures is called indentures made in the third person for this that the verbes be in the third person & such forme the indenture is ỹ more sure making, for that it is more cõmonlye vsed, the making of indentures in the first person is in such forme.

¶ To all true christian people to whom these presents

ꝓsent writing indented shall come. I. of W. greting in our lord euerlasting. Knowe ye me to haue geuen & granted, & by this my ꝓsēt dede indented to haue confirmed to C. of D. suche lande &c. Or elis thus, knowe all men that be ꝓsent, & them ꝑ be to come, ꝑ I I. of W. haue geuē & granted, & by this my ꝓsēt dede indēted haue cōfirmed to C. of D. suche lande &c. to haue &c. vpon ꝑ condicion folowing. In witnes whereof, aswell I. the saide I. of W. as ꝑ foresaide C. of D. to these indentures interchangeably haue put to our seales, or elles thus. In witnes whereof, to one part of this indenture I haue put to my seale, and to ꝑ other parte of the same indenture the foresayde C. of D. hath put to his seale &c.

And it seemeth that such an indēture made in the firste persone, is as good in ꝑ law as the indenture made in the thirde persone, when both parties haue thereto put their seales, for in the indenture made in the third person or in the firste person, if mencion bee made that the grauntour hath set his seale onely, and not the grauntee, then is the indenture onely the deede of the grauntour. But where a mencion is made that the grauntee hath sett his seale to the indenture &c. then is the indenture as well the dede of the grauntour, as the deede of the grauntee, and thus it is the deede of both, and also euery party of the indenture is the dede of both parties in such case &c.

Also ꝑ estate bee made by indenture to a

man for terme of his lyfe, the remainder to an other in fee vppon condicions &c. and if the tenaunt for terme of lyfe hath set his seale to the party of the indenture, and after dyeth and he in the remainder &c. entreth by force of hys remainder, in this case hee is holden to pfourme all the condicions compryſed wythin the indenture as the tenant for terme of lyfe ought to doo in his lyfe, and yet hee in the remainder neuer ſealed any parcell of the indenture, but the cauſes is, that in ſo muche that hee entreth and agreeth to haue the land by force of the indenture hee is holden to performe the condicion wythin the indenture if hee will haue the lande &c.

¶ Alſo if a feoffement bee made by dede Poll vppon condicion &c. And for this that the condicion is not perfourmed, the feoffour entreth and happeth the poſſeſſion of the dede poll of the leſſee bring an accion of that entre againſt the feoffour, it hath been queſtioned yf the leſſour maye plede the condicion &c. by the dede poll agaynſte the feoffee, and ſome haue ſayde, nay, in ſo much that it ſeemeth vnto them that a dede poll, and the property of the ſame dede appertayneth to him to whome the dede is made, and not to him that made the dede. And in ſo much that ſuche a deede appertaineth not to the feoffour, it ſeemeth to them that he may not plede this deede &c. And other haue ſayde the contrary, and haue ſhewed dyuers cauſes. One is, if the caſe bee ſuch that in ỹ accion betwene them if the feoffee plede the ſame dede,

and

and ſhewe this to the court. In this caſe in ſo much that the dede is in the court, the feoffour may ſhew to the court how in the dede bee dyuers condicions to bee perfourmed of the partie of the feoffee, and for this that they bee not perfourmed hee entred &c. and therto he ſhall bee receyued by the ſame reaſon when the feoffour hath the deede in hande and ſhewethe it to the court hee ſhalbe well receyued to plede of thys &c. And namely when the feoffour is pryuy to the dede, for he ought to bee pryuy to the deede, when he made the deede.

¶ Alſo, if two men make or doo a treſpaſſe to another, the which releaſethe to one of them by hys deede, all actions perſoneles &c. Notwithſtanding hee ſuethe an action of treſpas againſt the other, the defendaunt may well ſhewe that the Treſpaſſe was doone by hym and another his felowe, and that the playne-tife by the deede that hee ſheweth fourth releaſed to his felowe all actions perſonels, and yet ſuch deede apperteinethe to his felowe and not vnto hym, but for this that hee may haue aduantage by the dede, if he may ſhew the deede to the court hee maye well pleade therefore by the ſame reaſō in the other caſe when the feoffour ought to haue aduantage by the condycīō compriſed with the dede poll.

¶ Alſo, if ỹ feoffe gaue or grāted ỹ dede poll to ỹ feoffor, ſuch grāt ſhalbe good, & thā ỹ dede & ỹ perty of, ỹ dede, appertaineth to the feoffor. And when the feoffour hath ỹ dede in hand, &

pleadeth it to the court, it shalbe the more vnderstand ꝑ he came to the dede by a lawefull mean than by a tortious mean, & so it seemeth ꝑ they may wel plead such a dede pol, ꝑ cõprehendeth condicion &c. if he haue the dede in hand &c. Ideo sẽper quere de dubijs, quia per rationes p̃uenitur ad legittimã rationem.

¶ Estates that men haue vpon condicion in the lawe be suche estates that haue a condycion in the lawe annexed to them, though it be not specifyed in wrytyng, so as a man graunte by his deede to another the office of a Parke-shippe of a Parke, to haue and to occupy the same office for terme of hys lyfe, the estate that hee hathe in the office, is vppon condicion in the lawe, that is to saye, that the Parker well and truelye shal keepe the parke, and doo thys that to hys office appertaynethe to doo, or otherwise, that it shallbee lawefull to the grauntour and to his heires to put hym out and to graunt that to another if hee wyll &c. And such condicion as is vnderstande by the lawe to be annexed to some thyng is as strong as if the condicion were set or put in wrytyng. In the same maner it is of grauntes of offices of stewardes, constables, bedles bayliffes, & other officers. But if suche office bee graunted to a man to haue and to occuppe by hym or by his deputie, than if the office bee occupyed by him or by hys deputie as it ought by the lawe to bee occuppyed, this sufficeth for him, or els the grauntour or his heires may put him out

as it is afore sayde.

¶ Also estates of lāds or tenemēts may be vp̄ po cōdicion in the law, though ẏ vpō the estate made, there was no reherſal made of the cōdycions, as put ẏ case ẏ a lease be made to the huſ bād & his wife, to haue & to hold to thē during the couerture betwene thē, in this case they haue estate for terme of their two liues vpō cōditiō in ẏ law, ẏ is to say if one of thē dye, or yf dyuorce be made betwene thē, ẏ then it shalbee lawful to the leasor & his heires to enter &c. & ẏ they haue estate for termē of their two liues it is pued thus. Euery mā ẏ hath estate or frāk-tenemēt in any lands or tenemēts, eyther he hathe estate in fee, or in fee tayle, or for terme of life or for term of anothers life, and yet by such lease they haue franktenement. But they haue not by that graūt fee nor tayle, nor for terme of anothers lyfe. Ergo they haue estate for terme of their two lyues, but this is vppon condicion in the lawe in fourme afore sayde. And in this case yf theye make waste the lessoure shal haue against them a writ of waste, supposing by hys writ. Quod tenent ad terminum vite &c. but in his plee, hee shall declare howe and in what maner the lease was made, in the same maner it is if an abbot make a lease to a man to haue and to holde durynge the tyme that the lessor is abbot. In this case the lesse hath estate for terme of his owne lyfe, but this is vppon condicion in lawe that is to say that yf the abbot dye, or resigne to be deposed, it shallbe lawefull

to his successours to enter &c. Also a man may
7.3. see in the booke of assise. Anno. xxviij. E. iij. a
plee of assise in this forme ꝑ enluethe, assise of
nouel disseisin was some time brought against
one. A. that pleded to the assise, & was found by
verdit ꝑ the auncester of the plaintif diuised the
tenements to be sold by the defendaunt ꝑ was
his executor to make distribution of the money
for his soule, & it was found ꝑ a man after the
death of the testator rẽdered him certain sume
of money for the tenemẽts but not to the value
& that the executour after held the tenementes
in his own hand by two yeare to the intente to
haue solde the tenements more dearer to some
other, and it wasfounde that hee had all thys
whyle after taken, the profytes of the tene-
mentes to his owne vse, wytheout any thyng
doyng for the soule of the dead. Wombray, the
executour in such case is holden by the lawe
to make the sale as soone as hee maye after the
death of the testatour and it is founde that he
refused to make the sale & so the default was
in him, and also by force of the deuise hee was
holden to haue put al the profytes of the sayde
tenements to the vse of the dead, & it is found
that he hath taken them to his owne vse and
so another defaut is in him wherefore it was
adiudged that the plaintife should recouer &c.
And so it appeareth by the said iudgement that
by force of the sayd deuise the executoure had
none estate nor power in the tenementes but
vpon condicion in the lawe &c, And in suche ca-

ses

les it nedeth not to haue shewed any deede rehearsing the condicions &c. Ex paucis dictis intendere plurima possis. More shalbe sayde of condicions in the Chapiter of discentes that taketh away enter and in the chapiter of releles and in the chapiter of discontinuance.

¶ Discentes. Cap. vi.

DIscentes that take away entres be in two maners that is to say where the dyscent is in fee or in fee tayle Discent in fee that taketh away enter is if a man seysed of certayn lands or tenementes is disseysed and the disseysour hath issue and dyeth of such estate. But nowe the tenementes discende to the issue of the disseisour by course of the law as heire vnto him.

¶ And for thys that the lawe putteth the lands or tenements vpon the issue, & the issue commeth to the tenementes by course of the law and not by hys owne deede, the enter of ỹ disseisy is taken away and is therof put to his writ of enter vpon disseysin agaynst the heyre of the disseysour to recouer the lande.

¶ Discent in the tayle that taketh awaye enter is if a man be dysseysed and the disseysor graueth the same lande to another in the tayle, and the tenaunte in the tayle hathe issue and dyeth seysed of such estate and the issue entreth in this case the enter of the disseysy is taken awaye, and hee is putte to sue agaynst the issue of the tenaunt in the tayle a writte of enter vpon

pon disseysin &c.

¶ And note well that in such discentes that take away entres it behoueth that a man dye seysed in his demesne, as in fee tayle, for dying seised for terme of life or for terme of anothers life shall neuer take away the enter &c.

¶ Also a discent of reuersion or of remaynder shal neuer take away enter &c. so that such cases that take away entres by force of discents it behoueth that he that dyeth seysed haue in e franktenement at the time of hys dynge or els such discent taketh not away enter.

Also as it is sayd of discents ꝑ discend to the issue of him that dieth seised &c. ꝑ same lawe is wher they haue no issue, but ꝑ tenements discend to ꝑ brother or to the sister, or to the vncle or to some other cosin of his ꝑ dieth seysed &c.

¶ Also if there be Lord and tenant and the tenaunt be disseysed, and ꝑ disseisour alieneth to another in fee & the alien dieth without heyre, & the Lord entreth as in his eschete. In this case the disseisy may enter vpon the Lorde by this that the Lord commeth not to the land by discent but by eschete.

¶ Also if a man seysed of certayne lande in fee or in fee tayle vpon condicion to yelde certayn rent or vpō other cōdicīō though that such tenant seised in fee or in fee tayle dye seised, yet if ꝑ condicīō be broken in their life or after their decrase &c this taketh not away the enter of feoffor nor of the donor or of theyr heyres by this that the tenancy is charged with the rent-

dition

dicion and the estate of the tenancie is condicionel in whose handes so euer the tenancy shall come &c.

¶ Also, & if such a tenant vpō condiciō be dysseised & the disseisor die therof seised, & the land discendeth to ỹ heire of the disseisor, now ỹ entre of ỹ tenant vpon condiciō that was dissey-sed, is taken away, but if the condicion be bro-ken &c. then may the feoffor or ỹ donor ỹ made ỹ estate or their heirs enter &c causa qua supra.

¶ Also if a disseisour die seised, and his heires enter &c, the which endoweth the wife of the disseisor of the thirde part of the tenements, in this case as to ỹ thirde part that is assigned to the wife in dower, incontinent anon after that the wife entreth and hath the possession of the same third part, the disseisy may lawfully en-ter vpon the possession of his wife in the same thirde part. And the cause is for this, ỹ when the wife hath hir dower, shee shalbe adiudged rather immediatly by hir husband & not by the heire, & so as to the frankatenement of ỹ same third part, the discent is defeated, & so ye may see how before the dowmēt the disseisy might not enter in any part &c. and after the dowmēt he may enter vpon the wife, & yet he may not enter vpon the other two parties that the heir of the disseisour hath by discent &c.

¶ Also, if a woman bee seysed of lande in fee, whereof I haue right and title to enter, if the woman take an husband and haue issue be-twene them, and after the wyfe dyeth seysed,

and after that the huſband dyeth, and the iſſue entreth &c. in this caſe I may enter vppon the poſſeſſion of the iſſue, for this that the iſſue cometh not to the tenements immedyatly by diſcent after the death of his mother.

¶ Alſo if a diſſeiſour enfeoffe his father, & the father entreth & dyeth of ſuch eſtate ſeyſed by which the tenements diſcend to the diſſeiſour, as to the ſonne & heyre &c. In this caſe ſ dyſcelly may wel enter vppon the diſſeiſour, notwithſtanding the diſcent, for this, that as to ſ diſſeiſin the diſſeiſour ſhalbe adiudged in, but as the diſſeiſour, notwithſtanding the diſcent.

¶ Alſo, if a man ſeyſed of certayne landes in his demeane as of fee, hath iſſue two ſonnes and dyeth, and the ponger ſonne entreth by abatement in the land the which hath iſſue, and of thys dyeth ſeyſed, and the tenementes dyſcend to the iſſue, and the iſſue entreth into the land, in this caſe the elder ſonne or hys heyres may enter by the lawe vppon the iſſue of the ponger ſonne, notwythſtandynge the dyſcent, for thys, that when the younger ſonne abated in the lande after the deathe of hys father before any entre of the elder, the lawe intendeth that hee entreth in clayminge as heyre vnto hys father, and for this that the elder brother claymeth by the ſame tytle, that is to ſaye, as heyre vnto his father, hee and his heyres may enter vpon the iſſue of the ponger brother notwithſtanding the diſcent &c. for thys that they clayme by one ſelfe tytle and in the ſame

ner it shalbe if ther be made discents from one
sone of the younger sonne &c. But in such case
if the father were seised of certain lands in fee,
e hath issue .ij. sonnes and dyeth, and the elder
sonne entreth, & is seised &c. And after ỹ yon-
ger brother disseyseth him, by which disseysin
e is seysed of fee, and hath issue, and of such
sute dyeth seysed, then the elder brother may
not enter, but is put to his writ of entre vpon
disseysin for to recouer the land. And the cause
is for thys, that the younger brother commeth
to the tenementes by a wrong dysseysin made
vnto hys elder brother. And for that wronge
the law may not entēd that he claime as heire
to hys father no more then a straunge persone
that had dysseysed the elder brother that ne-
uer had any title &c. And so may ye see ỹ diuer
site where the younger brother entreth after
the death of his father, before any entry made
by the elder brother in such case &c. And wher
the elder brother entreth after the death of his
father, and is disseysed by the younger brother
&c. In the same maner if a man seysed of cer-
tayne lande in fee, hath issue two daughters, &
dyeth, & the elder daughter entreth in ỹ lande,
claymyng all the land to hir, and thereof onely
taketh the profytes, and hath issue and dyeth
seysed, by which hir issue entreth, which issue
hath issue and dyeth seysed, and the seconde is-
sue entreth &c. et sic vltra. yet the younger
daughter and hyr issue as to the halfe maye
enter vppon euery issue of the elder daughter,

not

notwithstanding such dyscent, for thys ỹ thy clayme by one selfe title &c. But in such case if both two sisters come into the land to enter after the death of their father, and therof were seysed, and after the elder sister thereof dysseysed the yonger sister of that, that to hir belongeth, and thereof is seysed in fee, and hath issue, and of suche estate dyeth seysed, by whyche the tenementes dyscende to the issue of the elder sister, then the younger syster or hir heyres may not enter &c. causa qua supra.

Also, if a man seysed of certayne lande hath issue two Sonnes, and the elder brother is bastarde, and the younger brother mulier, & the father dyeth, and the bastarde entreth and clayme as heyre vnto hys father, and occupyeth the lande all hys lyfe without any entre made vpon him by the mulier, and the bastarde hath issue and dieth of suche estate seysed in fee, and the lande discendeth to hys issue and his issue entreth &c. in this case the mulier is without remedy, for he may not enter nor he shall haue no action for to recouer the lande, for thys that it is an auncient law in such case vsed, but it hath been an opinion of some men that that shalbe vnderstande where the father hath a sonne a bastarde by a woman, and after he weddeth the same woman, & after the spousayle he hath issue by ỹ same womã a sonne & a daughter mulier, & ỹ father dieth &c. If such a bastarde enter &c. and hath issue, and dyeth seysed &c. Then shal the issue of such a bastard

haue

ene the land cleerely to him as it is afore sayd
e. And not any other bastard borne of the mo-
her that was not espoused to hys father, and
hys is a good and reasonable opinion. For
suche a bastarde borne before the espousels so-
lempnysed betweene hys father and hys mo-
her by the lawe of holye Churche is mulier,
though that by the lawe of the lande hee is a
bastarde borne, and so hee hath colour of enter
as heire to his father, for this that he is by one
lawe mulier, that is to say, by the lawe of holy
Churche. But otherwyse it is of a bastarde
that hath no maner of colour to enter as heyre
in so much that he may not in no lawe be sayd
mulier &c. for such a bastarde is sayde Quasi
nullius filius. But in such case aforesayde
where the bastarde entreth after the death of
hys father, and the mulier putteth hym out, &
after the bastarde disseyseth the mulyer, and
hath issue, and dyeth seysed, and the issue en-
treth, then the mulyer may haue a writte of
entre vpon disseisin against the issue of the ba-
starde, and recouer the lande &c. And so may
ye see the diuersitie where such a bastard con-
tinueth his possession all hys lyfe without a-
ny interrupcion, and where the mulier entreth
and interrupted the possession of suche a ba-
starde.

Also if a childe within age haue title & cause
to enter into any lands or tenements vpon an
other ꝑ is seised in fee or in fee tayle of ye same
lands & tenemts, if such a mā ꝑ is so seysed die

of

of ſuch eſtate, ſo ſeyſed and the tenements di-
cend to his iſſue during the time that the ch
is within age ſuch diſcente ſhal not tol the e
tre of the chylde, but he may enter vpon the
ſine that is in by diſcent &c. for thys that no
ches ſhalbe adiudged in a chylde within age
ſuch caſe &c.

¶ Alſo if the huſband & his wife, as in rig
of the wife haue title and right to enter in t
tenementes that another hath in fee or in
taple, & ſuch a tenaunt dieth ſeyſed &c. In
caſe ſ enter of the huſband is taken away
the heire that is by diſcent. But if the hu
die, thē the wyfe may wel enter vpon the
by diſcent, for this that the laches of the
bande ſhall not turne to the wife & to hir hey
in preiudic nor in damage in ſuch caſe but
the wife & hir heires may wel enter wher ſuch
diſcent is during the couerture &c.

¶ Alſo if a man that is not of whole mynde
that is to ſay in latin. Qui non eſt compos m
tis, hath cauſe to enter in any ſuch tenement
if ſuch diſcēt vt ſupra be had in his life dur
the tyme that he was out of his minde, & a
die, hys heires may well enter vpon hym
is in by diſcent. And in this may ye ſee a cau
ſ the heyre may enter, & yet hys anceſter
had the ſame tytle may not enter for ſ he
out of his minde at the tyme of ſuche diſcen
if he wil enter after ſuch a diſcent, if actiō
this be ſued agayn ſt him, he hath nothing
him to plede or to helpe him, but ſay ſ he
out

t of mynd at ỹ time of such discēt ꝛc. And he
l not be receiued to say this, for this that no
l of ful age shalbe receiued in any plee by the
to disalt or disable his own persone. But ỹ
nt may wel disable the person of his aunce=
for aduantage of the heire in such case, for
ỹ no laches may be aiudged by the law in
ỹ hath no discreciō in such case. And if such
man out of his mynd make a feoffemēt ꝛc. he
not enter ne haue a writ called Dū nō fu=
cipos mentis ꝛc. causa qua supra. But after
death, his heire may wel enter or haue the
writ. Dū non fuit compos mentis at his
tion ꝛc.

Also if I be disseised by a childe within age ỹ
mith to another in fee, & the alien dieth sea=
, & the tenementes discende to his heire, the
ilde being within age, mine enter is takē away.
But if the childe within age enter vpon ỹ heir
is in by discent as he wel may, for this ỹ the
cent was during his nonage, than I maye
enter vpon the disseisey, for this ỹ by his
he hath defeted & adnulled the dyscent.
And in the same maner it is where I am sea=
, and the disseisour maketh a feoffement in
vpon condicion ꝛc. And the feoffee dyethe
such estate seased ꝛc. I maye not enter vpon
heire of the feoffee. But if the condicion be
en so that by suche cause the feoffoure en=
vpon the heire, nowe may I well entre,
this that when the feoffour or hys heyres
for the condicion broken, the discente is

vtterlye

vtterly deketed.

¶ Also if I be disseysed, and the dysseisee hath issue and entreth into religyon, by which the landes descendethe to his issue this case I may wel entre vppon the issue, yet there was a discent. But for this that discente commethe to the issue by the fathe deede, that is to say, for this that he entred to religion &c. and the discent commeth to by the deede of God, that is to say by death myne entre is congeable, and lawefull, for I arrayne assise of Nouel disseysin against my dysseysour, though ỳ he after enter into religion, this shall not abate my writte. But my writte this notwithstandyng shall abide in his force & strength, & my recouery against hym shal bee good by the same reason, ỳ he ỳ came to his issue by his owne deede may not put me fro mine entre &c.

¶ Also if I let to a manne certayne lande for terme of twenty yeares, and another dieseth me, and putteth out the terme, and dysseysed, and the tenementes discend vpon heyre. I may not enter, and yet the lesse terme of yeares may wel enter for this that his entre hee putteth not out the heire that in by discent fro the franktenement that hym discended but oneiye to haue tenement for terme of yeares, that which is no expulsion of the franktenement of the heire that is by dyscent. But other wise it is where myne naunt for terme of lyfe, is dysseysed &c.

supra &c.

Also it is sayd that if a man seysed of tenements in fee by occupatiō in time of warre, dieth thereof seised in time of warre: the tenements descend to his heire, such discent putteth out no man of his entre. And of this a man may see a plee in a writt de Ayel. An. 8. E. 2.

Also noe dying seised where all the tenements commeth to another by succession shall take away the entre of any person &c. For of bishops, abbots, priours, deanes, or persones of churches &c. though y there were twēty successours, this putteth no man frō his entre &c. More shalbe sayd of discents in the Chapiter of continual claime &c.

Continual claime. Cap. viii.

Continual clayme is, where a manne hathe right, and title to enter in anye landes or tenementes whereof another is seysed in fee or fee taple, yf hee that hathe title to enter make contynuall clayme to the landes and tenementes before the dying seised of hym, y he the tenementes. Than though such tenaunt dye thereof seysed, and the landes and tenementes descende to hys heyre, yet maye hee that hath made suche clayme or hys heyre enter into the landes and tenementes so ended, because of the continuall clayme made, notwythstandyng suche descente. As where a man bee disseysed, and the disseysy make continuall clayme to the tenementes

in the

in the lyfe of the disseisour thoughe the dysseisour dye seysed in fee, and the lande dyscendeth vnto his heires, yet maye the disseisy enter vpon the possession of the heire, notwithstanding such discent.

¶ In the same maner it is, if tenant for terme of lyfe aliene in fee, he in the reuersion, or he in the remainder may enter vpō the alien. And if such alien dye seysed of such estate without continual clayme made to the tenements beyng dying seysed of the aliene & the tenemēts by cause of the dying seysed of the aliene discende vnto the heire of the aliene, then may not he in the reuersiō, nor he in the remainder ētre. But if he in the reuersion, or hee in the remainder hath cause to enter vpon the aliene made continuall clayme to the tenementes beefore the dying seised of the aliene, then such a man may enter after the death of the alien as well as he might in his life &c.

¶ Also, if landes bee let vnto a man for terme of his lyfe, the remainder vnto another for terme of life, the remainder vnto the thirde in fee, if the tenaunt for terme of life aliene to another in fee, and hee in the remainder for terme of life maketh continual claime vnto the landes beefore the dying seysed of the aliene, & after the aliene dieth &c. and after hee in the remainder for terme of life dyeth beefore any entre made by hym.

¶ In this case he in the remainder in fee maye entre vppon the heire of the aliene, be-

cause

cause of continual claime made by him ꝑ made the remainder for terme of life, for this ꝑ suche right that he hath to ēter shal goe & remain to him in the remainder after him, in so much ꝑ he in the remainder in fee, may not ēter vpō ꝑ aliene in fee during ꝑ life of him in the remainder for terme of life, & because he might not make cōtinual claime but whē he had title to ētre. But it is to see to thee my childe how and in what maner such cōtinual claime shalbe made, & to learne this three things there be to vnderstand.

¶ The first thing is if a man haue cause to enter in any lands or tenements in diuers townes within one shiere, if he enter in any parcell of the lāds or tenements that bee in one towne in the name of the lands or tenements ꝑ bee in one towne to which he hath right to enter & in al the townes in the same shiere, by suche entre he hath as good possessiō & seisin of such landes or tenements whereof he hath title to enter as if he had entred into euery parcel, & this semeth great reasō, for if a mā wil enfeoffe another without dede, of certain lands or tenements ꝑ hee hathe in manye townes within one shiere, and he wil deliuer seysin to the feoffee of parcell of the tenementes within one towne in the name of al the landes & tenementes that hee hathe in the same towne, and in al the other towns &c. al the sayde tenementes &c. shall passe by force of the sayd liuerye of seysin to hym to whom such feoffemēt in such maner is made. And yet

he to whom such liuery of seisin is made, hath no right to al the lands & tenemēts in all the townes but because of the liuery of seisin made of parcel of the lāds or tenemēts in one towne, A multo fortiori. It semeth good reaō ỹ whē a mā hath title to enter into lāds or tenements in diuers towns wīn. 1. shiere before any entry by him made, ỹ by the entre of him made in parcel of ỹ tenemēts in one town in the name of all ỹ lāds & tenemēts to the which he hath title to enter wīn the same shiere, this is a seisin of all in him, & by such ētre he hath possessiō & seisyn in dede as if he had ētred into euery parcell &c.

¶ The second is to vnderstand, that yf a man haue title to enter into any landes or tenementes, if hee dare not enter in the same landes or tenements nor in any parcel therof for doubt of beating, or for doubt of maimyng, or for doubte of both, if he go & approch as nigh ỹ tenements as he dare for such doubt, & clayme by woords the tenementes to bee his, incontinent by such clayme hee hath a possession & seisin in the tenementes as well as if hee had entred in deede, though he had neuer possession or seysin of the same lands or tenements before the said claim. And that the law is such, it is well prooued by a plee of an Assise in the booke of Assise. In. 38. E. 3. The tenure of which ensueth in this fourme.

¶ In the countie of Dorset beefore the same Justices it was founden by verdit of Assise, that the plaintife whiche had ryght by dyscent of hys

of heritage to haue ỳ tenemẽts put in plaint at the time of the deathe of his auncestor whyche he was dwelling in the town where the tenementes were, & by wourd claimeth the tenements, among his neighbors, but for dout of death he durst not approche vnto the tenemẽts, but bringeth assise, & vpon the matter found it was awarded ỳ he should recouer.

¶ The thirde thing is to vnderstãd in what time the claime ỳ is sayd continual claime shal serue, & help him ỳ maketh ỳ claime & his heir. And as to this it is to weete ỳ he ỳ hath tytle to eter whã he wil make his claim, & if he dare approche vnto ỳ lãd, thã it behoueth him to go vnto the land, or to parcel of it, & make his clayme. And if he dare not approche vnto the lande for dread of beating, maiming, or death, than it behoueth him to goe, & to approche as nigh as he dare toward the land or parcel therof, & make his claime. And if his aduersarye ỳ occupyeth the lande dye, seysed in fee or in fee tayle within a yere & a day after suche claime made, by whyche the tenementes dyscende vnto his sonne as heire vnto hym, yet may he that made the claime enter vppon the possession of the heires. But in this case after the yeare and the day that suche clayme was made, if none other claime be made, if the father thẽ die seised, the morow after the yeare & the day, or at another day after &c. than maye not he that made the claime enter. And therefore if he that made ỳ claime wyll bee sure alwaye that hys enter

shal not be take away by such discent, it behoueth him þ within the yere & the day after þ first clayme to make another claime in the fourme aforesayd. And within the yere & the day after the second claime to make the thirde clayme in the same maner, & within the yere & the day after the third claim, to make another claim & so forth, þ is to say, to make another clayme within euery yere & day next after euery claime made during the life of his aduersary, & than at what time þ his aduersary dye, his entre shal not be take away by no discēt. And such clayme made in such maner is most cōmonly taken & called continual claime of him þ made the clayme. But yet in case aforesayde where his aduersary dyeth within the yeare & the day next after the first clayme, this is in the law a continuall clayme, in so much þ his aduersary died within the yeare & the day after the same claime, for it is no neede for him þ made the claim to make any other claime, but at þ time that hee with in the same yeare & the day &c.

¶ Also if his aduersary bee disseysed within the yeare & a day after the clayme, and dysseisour dieth thereof seised within the yeare and the day &c. This dying seised shal not hurt him þ made claime, but that he may enter &c. For whosoeuer he be þ dieth seysed within the yeare & the day after suche claime, that shall not hurte him that made the claime, but that he may enter though there were manye dyings seised & many discents within the yeare & the daye &c.

¶ Also

Also if a man be disseised, & the disseysor die seised within the yeare & the day next after the disseisin done, wherby the tenements discen. de to his heire, in this case the entre of ỳ disseysy is taken away for the yere & the day ỳ should purge the disseisy in such case &c. shal not be taken frō ỳ time of the title of entre growen vnto him, but only frō the time of ỳ claime by him made in time aforesayde, & for ỳ cause it shalbe good for such a disseisy for to make his claim &c in as short time as he may after ỳ disseisin &c. Also if such a disseysour occupy the land by yeres without any clayme made by the dysseisy &c. & the disseysie by little space before the death of the disseisour make clayme in ỳ forme aforesayde, if so it fortune that within a yeare and a day after such clayme the disseysour dyed &c. the entre of the disseysie is congeable, and for thys it shalbe good for such a man that made no clayme that hath tytle to enter &c. when he heareth that hys aduersarye lyeth sicke to make his clayme. &c.

Also it is sayde in the cases putte before where a man hath tytle to enter bycause of a disseysin &c. The same lawe is where a man hath right to enter bicause of the title &c. Also in this sayd presidents may ye knowe mychilde two thinges. One is where a man hath tytle to enter vpon a tenant in tayle, if he make any such clayme vnto the land &c. Then is the state of the taile defeated, for that clayme was an enter made by him, & is of the same es-

fect in the law as he were vpon the same tene-
ments, and had entred in the same tenements
as is afore sayde. And then when the tenaunt
in tayle immediately after suche clayme contí-
nueth his occupacion in the tenementes, thys
is a disseisin made of the same tenements vnto
him that made the claime. Et sic p̄ consequens
the tenaunt then hath fee simple &c.

The secōd thing is, that as oft as he that hath
right to enter maketh such claime, & thys not-
wtstanding his aduersary cōtinueth his occu-
pacion &c. so oft ꝑ aduersary doth wrong & dis-
seisin to him that made ꝑ clayme. And by thys
case so often may he that made the same claim
for euery such wrong and disseisin made vnto
him, haue a writ of trespas. Quare clausū fuī
fregit &c. to recouer his dammages &c. Or he
may haue a writ vpon the statute of king Ri-
chard ꝑ second made the fift yere of his reign
supposing by his writ that his aduersary hath
entred into the landes or tenemēts of hym that
made ꝑ claime where his entre was not giuen
by the law &c. & by such action he shall recouer
his dammages &c. And if the case be such that
the aduersary occupy the tenemēts with force
& armes, or with a multitude of people at the
time of such claime &c. Thē may he that made
the claime for euery such time haue a writ of
Forcible enter & recouer his treble damages.

¶ Also here it is to see if the seruant of a man
that hath tytle of entre may by the commaun-
dement of his maister make continual clayme

for

for his master in his name, and it seemeth that in some cases he may doe this, for if he by hys cõmaundement come to any parcell of the land and there maketh claime &c in the name of his maister, this clayme is good for hys mayster, for this that he hath doone all that it behoued hys maister to doe in such case &c.

Also, if a maister say vnto his seruaunt that he dare not goe vnto the lande nor to any parcell of the lande for to make his clayme &c. and dare not approche nor nigh vnto the said land lane to such a place called Dale, & commaundeth hys seruaunt to goe to the same place of Dale, & there to make a claime for him &c. if ỹ seruant do &c. this semeth as good clayme for his master as if he had been there in his owne person, for ỹ the seruant did all that his master durst do & ought to do by the law in such case.

Also, if a man be so sicke or so lame that hee may not in no maner come to the lande nor to any parcell of the same, or if there bee a recluse that he may not bicause of his order goe out of his house &c if such a maner person commaũde his seruaunt to goe and make clayme for hym &c. and the seruaunt dare not goe to the lande, nor to any parcell thereof for doubt of beating, mayme or deathe, and for that cause suche seruant commeth as nigh to the lande as he dare for such dreade, & maketh thys clayme &c. for his master, it semeth that such clayme for hys maister is good and stronge in lawe, for elles his master should be in too great mischiefe, for

it may wel be that such a person that is sick or lame, or recluse, cannot finde any seruant that dare go vnto the land nor to any parcel of it to make the claime for him &c. But if the master of such a seruant be in good health, & may and dare wel go to the tenements or to parcel of it to make his clayme for him &c if such a master cõmaunde his seruant to go to some parcell of the land & make clayme for him &c. And when the seruant is in going to doe the commaundement of his master, he heareth by the way such things that he dare not goe to any parcel of the lande for to make any clayme for his master, & for that cause he goeth as nygh vnto the lande as he dare for doubt of death, and there he maketh clayme for his master in the name of hys master &c. It semeth that the doubt in ỹ lawe in such case shalbe if such clayme auayleth to his maister, not for thys that the seruaunt dyd not all this that hys master at the time of commaundement durst haue done.

¶ Also, some haue sayd that where a man is in prison & is disseised and the disseysour dyeth seysed duryng the tyme that the dysseysy is in prison, by which tenements discend to ỹ heyre of the disseisour, they haue sayde that this shal not hurte the disseysy that is in prison, but that he may wel enter notwithstanding such discẽt for this that he may not make cõtinual clayme when he was in prison. And also if such a one that is in prison bee outlawed in an action of Dette or Trespas, or in appele of robbery &c,

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he shall reuert such outlawry by writ of Errour &c. bicause he was in prison at the time of outlawry against him pronounced.

Also if a recouery be had by discent agaynst such a one that is in prison, he shall auoyde the iudgement by a writ of Errour, for this ỳ hee was in prison at the time of such default made &c. And bicause ỳ such matters of record shall not hurt them that be in prison but ỳ it shalbe reuersed &c, A multo fortiori. It semeth that a matter in deede, that is to say, such discent had when he was in prison, shall not hurt him &c. specially for this that he may not go out of prison to make continuall clayme &c.

And in the same maner it semeth to them where a man is out of the realme in the kings seruice for businesse of the realme, and if a man be dysseysed when hee is in the seruyce of the kynge, that such discent shal not hurte the dysseisy, but for this that he might not make continuall clayme, &c. it seemeth vnto them that when he cōmeth agayn into England he may enter againe vpon the heyre of ỳ disseisour &c. for such a man shal reuerse an outlawry that is pronounced against him during ỳ time that he is in seruice &c. Ergo a multo fortiore. He shal haue ayde by the law in the other case &c.

Also other haue sayd that if a man be out of the realme though he be not in the kynges seruice, if such a man beinge out of the realme be dysseysed of landes or tenementes wythin the realme, & the dysseysour dye seysed &c. the dysseisy

seysy beinge out of the realme, it seemeth vnto them that when the disseisy commeth into the realme that he may well enter vpon the heyre of the disseisour &c. and this semeth vnto them for two causes.

¶ One is, that he ỹ is out of the realme, may not haue knowledge of the disseisin made vnto him by vnderstanding of the law, no more then that a thing done out of the realme may be tried within the same realme by the oth of .xij. mē &c. & cōpel such a man to make cōtinual claime which by the vnderstanding of ỹ law can haue no knowledge or cognisaunce of such disseisin made or done, this shalbe inconuenient namely when such a disseisin is done vnto him, when he was out of the realme. Also the dying seised was done when he was out of ỹ realme. For in such case he may not by possibilitie after the cōmon presumpcion make no cōtinual clayme, but otherwise it shalbe if ỹ disseisy were within the realme at the time of the disseisin or at ỹ time of the dying seised of the disseisour &c. Another matter they alledged for a proofe, that when the statute of king Edward the thyrde, the .xxxiij. yere of his raigne, by which statute no claime is out &c the law was such, that if fine were leuied of certain lands or tenements if any that was a straūger to the fine had right to haue & to recouer ỹ same lands or tenements if he came not & made his claime therof within a yeare and a day next after the fine leuyed he shalbe barred for euer. Quia dicebatur sine

qui

quod fine littibus imponebat. And that ỹ lawe was such it is proued by the statute of Westm. the second. De donis conditionalibus, wher it speaketh if the fine be leuied of tenements gen in ỹ taile &c. Quod finis ipso iure sit nullus, nec habeãt heredes aut illi ad quos spectat reuersio licet plene etatis fuerint in anglia & ea ꝓ ꝓsonã necesse apponere clameũ suũ. So it is proued that if a straunger that hath right vnto ỹ tenements if he were out of the realme at the time of the fine leuyed &c, shall haue no dãmage though that such fine was matter of record, by greater reason it seemeth vnto them that a disseisin & discẽt ỹ is matter in dede shal not so grieue him ỹ was disseised whẽ he was out of ỹ realme at the time of ỹ disseisin & also at the time ỹ the disseisour died seised &c. but ỹ he may well enter notwithstanding such discẽt. Also enquire if a man be disseysed & he arrain assise against the disseisour, & the recognitours of the assise challẽge for the plaintife, & the iustices of the assise wil be aduised of their iudgmentes vntill the next assise &c. & in the meane season the disseisour dieth seised &c. If the said sute of the assise shall be taken in lawe for the disseysyn a continuall clayme, in so much that no defaute was vnto him. &c.

Also enquire if an abbot of a monastery dye and durtng the time of vacation a man wrongfully entreth in certayne parcels of land of the monastery claymynge the lande vnto hym and his heyres, and of that estate dyeth seysed, and

the

the land descendeth vnto his heires, and after that an abbot is chosen and made abbot of the monastery, a question is if the abbot may enter vpon the heire or not. And it seemeth to some that the abbot may well enter in this case, for this that the couent in tyme of vacation was no person able to make continual claime for no more then they be personable to sue an action, no more be they personable to make continual claime for ỹ couẽt is but a dead body wout hed for in time of vacacion a graũt made vnto thẽ is voyde, & in this case an abbot may not haue a writ of entre vpon disseisin against the heire for this that he was neuer disseised. And if the abbot may not enter in this case, then he shall put vnto his writ of ryght the which shall be to harde for the house by whych it seemeth to them that the abbot may wel enter &c. Quare de dubijs, legem bene discere si vis, quere dū sapere que sunt legittima vere.

¶ Releses. Cap. viij.

Releses be is diuers maners, that is to say releese of ryght that a man hath in landes or tenementes, and releese of actions reals & personels, and of other thynges releese of all the right that a man hath in landes or tenementes &c. is commonly made in such fourme or to such effecte. Nouerint vniuersi per presentes me A de B remisisse, relaxasse, & omnino de me & heredibus meis quiet clamasse C. de D totum ius, titulum, & clameum, q̃ habui, habeo, vel quouismodo in futuro habere po-

tero

tra de & in vno meſuagio cum pertin in F. in
And it is to bee vnderſtand, that theſe woꝛdꝭ
(remiſiſſe & quiet clamaſſe) be of ſuch effect as
theſe woꝛdꝭ, relaxaſſe ꝛc. & alſo theſe woꝛdꝭ
which be cõmonly put in ſuch dedes of releſſes
ꝛc. ꝟ is to vnderſtand. Que quouiſmodo in fu-
turũ habere potero, be as woꝛdꝭ voyd in the
law, foꝛ no right paſſeth by a releaſe but the ri-
ght that the leſſour hath at the time of hys re-
leaſe made, foꝛ if it be father & ſonne, & ꝟ father
be diſſeiſed, & the ſonne liuing, his father relea-
ſeth by his deede to the diſſeiſour al that ryght
ꝟ he hath oꝛ may haue in the ſame tenementes
ſout clauſe of warrantiſe ꝛc. & after ꝟ father
deth the ſonne may lawfully enter vppon the
poſſeſſion of the diſſeiſour, foꝛ this that he had
no right in the land liuing his father, but the
right diſcended vnto him by diſcent after ꝟ re-
leaſe made by the deathe of his father. Alſo in
releaſe of all the righte that a manne hathe in
certayne landes; it beehoouethe vnto hym to
whõ the releaſe is made in ſuch caſe that he ha
a free hold in the lands in dede oꝛ in the law
at the time of the releaſe made, foꝛ in euerye
where he to whom the releaſe is made, hathe a
fee holde in deede oꝛ in law at the tyme of the
releaſe made ꝛc. the releaſe is good frankeſtẽt
in law, as if a man haue diſſeiſed another, and
hereof dieth ſeiſed, by the which the tenemen-
tes diſcend vnto his ſonne, howbeeit that hys
ſonne enter not in the tenementes, yet he hathe
frankeſtenement in the law to him vpon hym,

and

& therefore ꝑ releaſe made is good inough. And if he take a wife ſo being ſeiſed in ꝑ law howbeit ꝑ he neuer enter in deede & dieth his wife ſhal haue therof her dower. Alſo in ſuch caſe a releaſe of al her right, howbeit ꝑ he to whō the releaſe is made ne hath any thing in the frāchement neither in deede nor in law, yet the releaſe is inough, as if the diſſeiſour haue left in ꝑ he had by diſſeiſin to another for terme of his life, ſauing the reuerſion to him, if the diſſeiſee or hys heires releaſe vnto the diſſeiſoure all the ryght &c. that releaſe is good, for this that he to whom the releaſe is made, had in him a reuerſion at the tyme of the releaſe made. In the ſame manner if a leaſe bee made to a man for terme of life the remainder vnto another for terme of tyme, the remainder vnto the third in the taple, the remaynder vnto the fourthe in fee, if a ſtraunger that hath the ryght vnto the land releaſe al his right vnto anye of thē in the remainder, ſuche releaſe is good, for thys that euery of them hath a remainder veſted in hys ſelfe, yet if the tenaunt for terme of hyſe be diſſeyſed and after that hath right (the poſſeſſyon beyng in the diſſeiſour) releaſe vnto one of thē to whom the remaynder was made, all hys ryght &c. That releaſe is voyde, for that, that he ne had in hym no remainder in deede, but all onelye a righte of a remaynder at the tyme of the releaſe made. Et nota, that euery releaſe made to him that hathe a reuerſion or remaynder in deede, ſhal ſerue & help them that haue

the

he franktenement as wel as them to whom ꝯ releaſe is made if the tenāt haue the releaſe in is hand ꝛc. In the ſame maner a releaſe made a tenāt for terme of life, or to a tenāt in the tayle, ſhal enure vnto thē in the reuerſion or to thē in the remainder as wel as to the tenāt of franktenement, & ſhal haue a great aduauntage of that, if that they maye ſhew it. Alſo if there e lord & tenant & the tenant is diſſeiſed, & the diſſeiſy releaſeth vnto the diſſeiſour all ꝯ ryght he hath in the ſeignourye or in the lande, the releaſe is good and the ſeignoury is extynct. And yt the goodes of the diſſeyſy be taken, and of thē the diſſeyſy ſueth a Replegiare againſte the lorde he ſhal compell the lord to auow vnto him & if he will auow vpon the diſſeiſoure, then vpon the mater ſhewed, the auowry ſhal be abated, for ꝯ diſſeiſy is tenant to thē in right and in law.

Alſo if land bee geeuen to a man in the tayle reſeruing vnto the donour & his heires a certayne rente, if the donee bee dyſſeyſed, and after the donour releaſe the to the donee all the right that hee hath in the lande, and after the donee entreth into the lande vppon the diſſeyſour, in this caſe the rent is gone, for this that the dyſſeyſy at the time of ꝯ releaſe made was tenant in right and in lawe vnto the donour, and the auowry of fine force ought to bee made vpon hym by the donour for the rent beehynde & But yet nothing of the right of ꝯ lande, ꝯ is ſlipe of the reuerſion, ſhall paſſe by ſuche releaſe

leaſe, for this that the donee to whom the re
leaſe was made then had nothing in the lande
but onely a right, & ſo the righte of the lande
may not paſſe by ſuch releaſe of the donee. I
the ſame maner it is if a leaſe bee made to
for terme of life, reſeruing to the leſſour
to his heires certaine rent, if the leſſee bee di
ſed, and after the leſſour releaſethe to the le
and to his heires, and after the leſſee entre
howbeit ỹ in the caſe the rẽt is extinct, yet
thing of the right paſſeth &c. cauſa qua ſup
But if it be very lorde and verye tenaunt,
the tenaunt makethe a feoffemente in fee,
Which feoffee neuer became tenaunt to the
&c. if the Lorde releaſe to the feoffour all
righte &c. thae releaſe is in all voyde, for
ỹ the feoffour hauh no right in the land, &
no tenaunt in right to ỹ lord but onely tena
as for the auowry to be made, & he ſhall ne
compell the lord to auowe vppon him, for
lord may auow vpon him the feoffee if he
Otherwiſe it is where the very tenant is d
ſeyſed as in caſe aforeſayde, for if the verye
naunt that is diſſeiſed holdethe of the lorde
knights ſeruice & dieth his heirs being wit
age, the lord ſhal haue & ſeiſe the ward of
heire. And ſo he ſhal not haue the ward of
feoffour that made the feoffement in fee, & ſo
is a great diuerſity betwene theſe two caſes.

¶ Alſo if a manne enfeoffe another in
lande vppon truſte. and to the entent that
ſhall perfourme his laſt will, and the feoffe
occ

ſhal perfourme his laſt will, and the feoffour occuppeth the ſame at the will of hys feoffees and after the feoffees releaſe by their deede vn to the feoffour all the right &c. This hath ben in queſtion yf ſuch releaſe bee good or not, and ſome haue ſaide that ſuche releaſe is good for this, that no priuitye was betweene the feoffees & theire feoffour, in ſo much that no leaſe was made after ſuche feoffement by the feoffees to theire feoffour to holde at theyre will &c. and ſome haue ſayde the contrarye and that for two cauſes. One is, that when ſuch feoffementes made vppon confidence to perfourme the will of ỹ feoffour, that it ſhalbe vnderſtād by the law that the feoffour by & by, ought to occupy the land at the will of hys feoffees, and ſo it is ſuch maner of priuity betweene them, as yf a man make a feoffement to an other perſon, and they incontinent vpon the feoffement will ſaye and graunt that the feoffour ſhal occuppe the land at theire will &c. An other cauſe they alledge, that if ſuche lande bee worth .xl.s. by yere &c. Then ſuch a feoffour ſhalbee ſworne in aſſiſes & in other inqueſtes, in plees reals and alſo in plees perſonels, of what great ſommes ſoeuer that the pleintifes will declare &c. And thys is by the common law of the land. Ergo this is for a great cauſe, and the cauſe is, that the lawe will that ſuche feoffour and their heires ought to occupy &c. And to take thereof the rent and all the profites and all maner of yſſues, and reuenues &c. as though the tenements were their owne

without interruption of feoffees, notwithſtanding ſuch feoffements. Ergo ỹ ſame law geueth a priuity betweene ſuch feoffors, & their feoffes vpon confidence &c. For whiche cauſes they haue ſaid that the releaſe made by ſuch feoffes vppon confidence to the feoffour, or to hys heires &c. ſo occupying the lande &c. ſhalbe good ynough &c. And this is the better opynion, as it ſeemeth. Alſo releaſes after ỹ matter in dede ſometyme haue their effect by force to enlarge the eſtate of them, to whom the releaſe is made, as if I let certein land to a man for terme of yeres, by force whereof he is poſſeſſed, and I releaſe vnto him al the right that I haue in the land without more woords ſett or put in the deede, and delyuer vnto him the deede. Than hee hath eſtate but for terme of hys lyfe, and the cauſe is for thys, that when the reuerſion or the remaynder is in a man the whiche will enlarge by his releaſe the eſtate of the tenant &c. he ſhal haue no greater eſtate but in the maner and fourme, as if ſuche a leſſour were ſeiſed in fee, and will by hys deede make eſtate to one in a certeine fourme &c. and delyuer vnto him ſeiſine by force of ỹ ſame deede if in ſuch deede of feoffement there bee no woorde of inheritance &c. Then hee hath eſtate but for terme of lyfe &c. and ſo it is in ſuche releaſe made by him in the reuerſion, or in the remainder, for yf I let land to a man for terme of lyfe, and after I releaſe vnto him all my right wythout more ſaying in the releaſe

taile, his eſtate is not enlarged. But if I re-
leaſe vnto him and to his heires of his bodye
ingendred, then he hath fee taile, and yf I re-
leaſe vnto him and to hys heyres, than hee
hath fee ſimple. So it behoueth in ſuch caſe to
ſpecify in the deede, what eſtate hee to whome
the releaſe is made ſhal haue &c. And ſome-
tyme releaſe ſhall enure to ſet & put the righte
in him that maketh the releaſe to him, to whō
the releaſe is made. As a man is diſſeiſed and
he releaſeth vnto the diſſeiſoure all the ryght
that hee hath. In this caſe the diſſeiſour hath
his right, ſo that where his eſtate before was
wrong, nowe by the releaſe it is lawfull and
right, but note well that when a man is ſey-
ſed in fee ſimple of any landes, or tenementes,
and an other will releaſe vnto him all ȳ right
that hee hath in the ſame tenements it nedeth
not to ſpeake of the heires of him to whome ȳ
releaſe is made, for this that hee had fee ſim-
ple at the tyme of the releaſe made, for yf the
releaſe were made to hym and to his heyres
by one daye or for one howre, this ſhalbee as
ſtronge vnto him in the lawe, as hee had re-
leaſed to him and to his heires, for when hys
right was gone from him at one tyme by hys
releaſe without any condicion &c. to hym that
had fee ſimple it is gone for euer. But where
a man hath a reuerſion, or a remaynder in fee
ſimple at the tyme of the releaſe made there
yf hee will releaſe to the tenaunt for terme of
yeares or for tearme of lyfe, or the tenaunt in
the taple, it behoueth to determyne the eſtate

that he to whom the releaſe is made ſhal haue by force of the ſame releaſe. For this that ſuch releaſe goeth to enlarge the eſtate &c. of hym to whome the releaſe is made. But otherwiſe it is where a man hath but a right vnto the lande and hath nothing in the reuerſion nor in the remainder in dede. For if ſuche a man releaſe all his right to one that is tenaunt of the frankeletenement all hys right is gone, though that no mencion bee made of his heires of him to whome the releaſe is made. For if I let lande to a manne for terme of lyfe, if I after releaſe vnto hym for to enlarge hys eſtate yet it behoueth that I releaſe vnto him and to his heires of his body engendred, or to hym & his heires males of his bodye begotten or by ſuche ſemblable eſtate &c. or otherwiſe he hath no greater eſtate thā he had before. But if my tenant for terme of life let the ſame land out to an other for terme of the life of his leſſe, ỹ remainder vnto an other in fee, now if I releaſe vnto him to whome my tenant letted for terme of lyfe, I ſhalbee barred for euer, though that no mencion bee made of his heires, for thys that at the tyme of the releaſe made I had no reuerſion but onely a right to haue the reuerſion. For by ſuche a leaſe with a remainder ouer that my tenaunt made, in this caſe my reuerſion is diſcontinued & ſuch a releaſe ſhal enure vnto him in ỹ remainder to haue aduauntage of thys as well as to the tenaunte for terme of lyfe, for to that entent the tenant for terme of lyfe & hee in the remainder be as one

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tenaunt in the lawe, and bee as if one tenaunt were ſole ſeiſed in his demeane as of fee and ſome of ſuche releaſe made vnto hym. Alſo yf a man bee diſſeiſed by two yf hee releaſe vnto one of them hee ſhall hold his fellow out of the land and by ſuch releaſe ſhal haue ſole poſſeſſiō, and eſtate in the lande. But if one diſſeiſoure vnto two in fee, and the diſſeyſy releaſe to one of them thys ſhall enure to bothe the ſaide huſſees. And the cauſe of the diuerſity betweene theſe two caſes is repugnaunt ynough.

Alſo if I be diſſeiſed, and the diſſeiſor is diſſeiſed if I releaſe to the diſſeiſor of my diſſeiſyn, I ſhall neuer haue aſſiſe nor entre vppon the diſſeiſour, for thys that his diſſeiſour hath my ryght by my releaſe &c. And ſo it ſemeth in thys caſe that if there were twenty diſſeiſors one after other, and I releaſe to the laſt diſſeyſyn hee ſhall barre all the other of their action, and their tytle. And the cauſe is as it ſemeth, by this that in manye caſes when a man hath a lawful title to enter though hee enter not &c. he ſhall defete all meane titles by his releaſe &c. But this is not in euerye cauſe as ſhalbee ſaide afterward.

Alſo if a man be diſſeiſed the whiche hath a ſonne within age, & dieth & beeing the ſonne within age the diſſeiſor dyeth ſeiſed, & the land deſcendeth to his heire, and a ſtraunger abateth and after the ſonne of the diſſeiſy whē he commeth into full age releaſeth all his ryght &c. to the abatour, In thys caſe the heire of the diſſeyſour

ſour ſhall haue no aſſiſe of mordaunceſter a-
gainſt the abatour but hee ſhalbe barred of the
aſſiſe for this that the abatour hath the right
of the ſonne of the diſſeiſy by his releaſe, and
the entre of the ſonne was lawfull &c. for this
that hee was wythin age at the tyme of the
dyſcent &c. but if a manne bee diſſeiſed and the
diſſeiſour maketh a feoffement vppon condi-
on that is to ſaye to pelde vnto him certayne
rent and for the defaulte of payment a reentre
&c. if the diſſeiſy releaſe to the feoffee vppon con-
dicion yet this altereth not the eſtate of the
feoffe vppon condicion as it was beefore. In
the ſame maner it is where a man is diſſeiſed
of certayne lande and the diſſeiſour graunteth
a rent charge out of the ſame lād though that
after the diſſeiſye releaſeth vnto the diſſeiſour
&c. yet ỳ rent charge abydeth in his force. In
the caſſe is in theſe two caſes that a man ſhal
haue none aduauntage by ſuche releaſe that
ſhalbee againſte his owne proper acceptaunce
and againſt his owin graunt. And though ſo-
me haue ſaid that where the entre of a man
is congeable vppon a tenaunt if hee releaſe to
the ſame tenaunt that this auayleth vnto the
tenaunt ſo as if hee had entred vpon ỳ tenaunt
and after enfeoffed him &c. this is not true in
euerye caſe for in the ſuſſe caſe of theſe two
caſes if the diſſeiſy in fee enter vpon he ſeiſed
vppon condicion and after enfeoffeth him, then
the condicion is all put aſyde and voyde. And
in the ſeconde caſe if the diſſeiſye enter and en-
feoffe him that graunted the rent charge then

is the rent charge auoided. But it is not auoi-
ded by anye ſuche releaſe with an entre made,
&c. Alſo if a man bee diſſeiſed by a child with-
in age the which alieneth in fee, and the aliene
dyeth ſeiſed and his heire entreth beeyng the
diſſeiſour within age. Now it is in the electi-
on of the diſſeiſour to haue a writ of Dñi fuit
infra etatem, or a writ of ryght agaynſte the
heire of the alyen, and which writ ſoeuer hee
taketh of thē, hee ought to recouer by the law.
And alſo hee may enter into the land without
any recouerye, & in this caſe ỳ entre of the diſ-
ſaiſy is taken away, but in this caſe if the diſ-
ſeiſye releaſe his right to the heire of the alyen
and after the diſſeiſour bringeth a writte of
right againſte the heire of the aliene, and hee
ioyneth the myſe vpon the cleare ryght &c. the
Graund aſſiſe ought by the lawe to fynde that
the tenant hath more cleere right &c. then hath
the diſſeiſour, for this that the tenaunt hath ỳ
right of ỳ diſſeiſy & his releaſe which is more
auncient & more clere right than the right of ỳ
diſſeiſour, for by ſuch releaſe, all the right of ỳ
diſſeiſy paſſeth vnto ỳ tenāt, & is in ỳ tenant.
And to this cōe haue ſaid, ỳ in ſuch caſe where
a man hath right to lāds or tenemēts but his
entre is not lawful, if he releaſe vnto ỳ tenāt
&c. Than ſuch releſe ſhal enure by way of ex-
tinguiſhement. As vnto this it may be ſayde,
ỳ this is trueth vnto him that releaſeth, for by
his releaſe hee hath diſmiſſed him ſelfe clene of
his right as to his perſon. But yet ỳ right ỳ
he had may wel paſſe & go vnto ỳ tenāt by his

releaſe, for it ſhoold bee inconuenient that ſuch an auncient right ſhoold bee extinct all vtterly &c. for it is cõmonly ſaide that right maye not dye. But a releaſe ỹ goeth by the way of extinguiſhmẽt againſt al pſõs is where he to whõ ỹ releaſe is made maye not haue this ỹ vnto him is releaſed. As if there bee lord & tenant, & the lord releaſeth vnto the tenaunt all ỹ ryght that hee hath in the lordſhip or all the right ỹ hee hath in the land &c. ſuch a releaſe goeth by way of extinguiſhement againſt al perſõs, for this, that the tenaunt maye not haue the ſame of him ſelf. In ỹ ſame maner is a releaſe made to the tenant of the land of a rent charge or of a cõmon paſture, for this that the tenant maye not haue that, that vnto him is releaſed &c. So ſuch releaſes goe away by extinguiſhment againſt all perſons.

¶ Alſo, to proue that the grand aſſiſe ought to paſſe for the demaundaunt in the caſe afore ſayde, I haue heard often in the lecture vpon the ſtatute of Weſtm the ſeconde that begynneth. In caſu quando vir amiſerit per defaltã tenementum qđ fuit iuis vxoris ſue &c. ỹ is at the cõmon law before ỹ ſtatute, if a leaſe were made to a tenant for terme of life, the remaynder ouer in fee, & a ſtrãger by a fained actiõ recouer againſte the tenaunt for terme of lyfe by defaut, & after the tenant dieth, he in ỹ remainder had no remedy before the ſtatute, for this, that he had no poſſeſſion of the lãd, but if he in the remainder had entred vpon the tenant for terme of lyfe, and diſſeiſed hym, and after the

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mant entreth vppon him, and after ꝯ tenaunt
in terme of lyfe leaſeth by ſuch recouerye had
by default and dyeth, now hee in the remayn-
der maye well haue a writte of right agaynſte
him that recouered. for this that the miſe ſhal
be ioyned only vppon the clere right. And yet
in this caſe the ſeiſine of him in the remainder
was defeted by the entre of the tenaunt for
terme of lyfe. But peraduenture ſome wil ar-
gue and ſaye that hee ſhall haue no writte of
right in this caſe, for this that whan the miſe
is ioyned in ſuche maner, that is to ſaye, if the
tenant haue more clere right to the land in the
maner as it is holden, then the demaundaunt
hath in the maner as hee demaunded. And for
this that the ſeiſine of the demaundaunt was
defeated by the entre of the tenaunt for terme
of lyfe, then hee hath no right in the maner as
he demaundeth. Vnto this it may bee ſaide ꝯ
theſe woordes (Modo & forma prout &c.) in
many caſes bee woordes of maner of pleading
and no woordes of ſubſtance. For if a manne
bring a writte of entre (In caſu prouiſo) of a-
lienacion made by the tenant in dower to hys
diſheritance, & pleadeth of ꝯ alienaciō made
vnto, & the tenaunt ſaith that hee aliened not
in ꝯ maner as ꝯ demaundant hath declared, &
vpō this they bee at iſſue, & it is found by ver-
dict ꝯ the tenant alyened in ꝯ taile, or for term
of an others lyfe the demaundant ſhal recouer
yet the alienacion was not in the maner as
the demaundant hath declared.

Alſo if there bee lorde and tenant, and the
tenaunt

tenant holdeth of the lorde by fealty onely, and the lorde diſtraineth the tenaunt for rent, and the tenant bringeth a writte of treſpas againſt his Lorde for hys cattayle ſo taken, and the lorde pleadeth that the tenant holdeth of him by fealtye and certeine rent, and for the rent dehynde hee came to diſtrain &c. And demaundeth iudgement of the writte brought againſt him. Quare vi & armis &c. And ỹ other ſaieth that hee holdeth not of him in the maner as he ſuppoſeth and vpon this they bee now at iſſu, and it is founde by verdite that hee holdeth of him by fealty tantū. In this caſe the writ ſhal abate, & yet he helde not of the lord in the maner as the lorde had ſaide, for the matter of the iſſue is, whether ỹ tenaunt holdeth of hym or not. For if hee hold of him, though ỹ lord dyſtraynd for other ſcrupules that hee ought not to haue, yet ſuch writte of thys Quare vi & armis &c. lyeth not againſt the lord but ſhal abate.

¶ Alſo in a writte of Treſpas of bearing away goods taken, if the defendaunt plede nothing culpable in the maner as the pleintife ſuppoſeth and it is founde that the defendant is culpable in another towne or at an other day than the pleintif ſuppoſeth, yet he ſhal recouer. And in manye moe other caſes theſe woords, that is to ſaye in the maner as the demaundaunt or ỹ pleintife hath ſuppoſed, bee no matter of ſubſtance of ỹ yſſue, for in a writ of right where the myſe is ioined vpon the clere right, it is as much to ſay and to ſuch effect, that is to witte, whether hath the more right the tenaunt or the

the demaundaunt to the thinge ſo demaunded &c.

¶ Alſo if a man bee diſſeiſed and the diſſeiſor dyeth ſeiſed &c. and his ſonne entreth by diſcent, and the diſſeiſye entreth vppon the heyre of the diſſeiſour, the whiche entre is a diſſeiſy &c. if the heire bring aſſiſe of a writ of ryght againſt the diſſeiſy he ſhalbe barred. For this that when the graunde aſſyſe is ſworne theire the is vpon the clere right and not vpon the poſſeſſion &c. for if the heire of the diſſeiſour had brought aſſiſe of nouel diſſeiſin, or a writte of entre in nature of aſſiſe & recouered againſt the diſſeiſy & ſued execucion yet may ỳ diſſeyſy haue a writ of entre in ỳ per againſt hym of the diſſeiſine made vnto him by his father, or he may haue againſt the heir a writ of right. But if the heire ought to recouer againſt the diſſeiſy in the caſe aforeſaid by writte of ryght then all his right ſhalbee clerely gone, for this that a lyall iudgement ſhoolde bee geeuen againſt him whiche ſhoolde bee againſte reaſon where ỳ diſſeiſy hath more clere right &c. And knowe ye my ſonne that in a writ of right after this that the foure knights bee choſen in ỳ graund aſſiſe, than there is no greater delaye than a writte of formedon after this ỳ the parties bee at an iſſue &c. & if the miſe bee ioyned vpon battaile then there is leſſe delay.

¶ Alſo a releaſe of al the right &c. in ſome caſe is good made vnto hym that is ſuppoſed tenaunt in the lawe though hee haue nothing in the tenementes as in a Precipe quod reddat,

if the tenant alien the land hanging the writte & after the demaundant releaſeth to him all his right that releaſe is good, for this that hee is ſuppoſed to bee tenaunt by the ſuite of the demaundant, & yet hee hath nothing in the lande at the tyme of the releaſe made. In the ſame maner it is if in a Precipe quod reddat, ỹ tenant vouche, and the vouche enter in the garranty, if after the demaundaunt releaſe to the vouch all his right &c. this is good ynoughe, for this that the vouch after this that he hath entred in the garranty is tenaunt in lew to ỹ demaundaunt.

Also as to releaſes of accions reals and accions perſonels it is ſo that ſome accions be mixt in the realtie and in the perſonaltye, as an accion of waſt bee ſued againſt the tenant for terme of lyfe, this accion is in the realtye for this that the place waſted ſhalbee recouered. And alſo it is in the perſonalty for thys ỹ ỹ treble damage ſhalbee recouered for ỹ wrong & waſt done by ỹ tenant, & for this in thys accion a releaſe of accion reall is a good plee to barre & ſo is a releaſe of accions pſonels. In the ſame maner it is in aſſiſe of nouel diſſeiſin, for this that it is mixt in ỹ realtie & in the perſonalty. But if ſuch aſſiſe be arrayned againſt the diſſeiſour the tenaunt of the diſſeiſour may plede a releaſe of accions perſonals for to barre the aſſiſe but not releaſe of accions reals, for none ſhal plead a releaſe of accions reals in aſſiſe, but the tenaunts &c.

Alſo in ſuch accions that behoueth to bee

ſued

ſued againſt the tenaunt of the frankeetenemēt
yf the tenaunt haue a releaſe of accions reals
of the demaundaunt made vnto him before the
writte purchaſed and hee pleadeth it, this is a
good plee for the demaundaunt to ſay, that he
that pleadeth that plee, had nothing in the frank
tenement in tyme of the releaſe made for that
hee had no cauſe to haue accion reall agaynſte
hym.

¶ Alſo in ſuche caſe where a man may en-
ter in lands or tenements, he may haue of this
maccion reall, which is geeuen vnto hym by
ſtatute againſt ỹ tenaunt. As in this caſe ỹ de-
maundant releaſe to the tenaunt al maner ac-
cions reals, yet this taketh not awaye ỹ entre
of ỹ demaundant but ỹ demaundant may well
enter. Notwithstāding ſuch releaſe for this that
nothing is releaſed but ỹ accion &c. In ỹ ſame
maner it is of things ꝑſoncls. As if a manne
wrongfully take my goodes, if I releaſe vnto
him all accions ꝑſoncls, yet I may by ỹ lawe
take my goods out of his poſſeſſion.

¶ Alſo if I haue cauſe to haue a writte of de-
tinue of my goods againſt an other thoughe ỹ
I releaſe vnto him for all accions ꝑſoncls, yet
I may take my goods out of hys poſſeſſion,
for this that no ryght of goodes is releaſed to
him but onelye ỹ accion &c. Alſo yf a man bee
diſſeiſed, and the diſſeiſour maketh a feoffe-
ment vnto dyuers perſons to hys vſe, and the
diſſeiſour continuallye taketh the profytes &c.
and the diſſeiſy releaſeth vnto hym all accions

reals

releas, and after hee ſueth againſt him a writ of entre in nature of aſſiſe becauſe of the ſtatute for this that he taketh the profites. Enquire how the diſſeiſour ſhalbee holpen by the ſaid releaſe, for if hee will plede the releaſe generally, then the demaundant may ſay that he had nothing in the franktenement at the time of the releaſe made, and if he plede the releaſe ſpecially thē it behoueth him to know a diſſeiſin, and than maye the demaundant enter in land &c. by his conſaunce of the diſſeiſine &c. But peraduenture by eſpecial pleding he may be barred of the accīō that hee ſueth &c. though ẏ the demaundant may enter &c.

¶ Alſo if a man ſue appelle of felonye of the death of his aunceſter againſt an other though the appellāt releaſe vnto the defendant al maner accions reals & pſonels, this ſhal not help the defendant, for this that this appelle is not an accīō real, in ſo much that the appellāt ſhal not recouer any realty, nor ſuche appell is no accion pſonal. In ſo much that ẏ wrong was vnto his aunceſter and not vnto him, but if he releaſe to the defendaunt all maner of actions than it ſhalbe a good barre in appelle, and ſo a man may ſee that a releaſe of al maner of actions is better then a releaſe of all maner of actions reals and perſonals &c.

¶ Alſo in appele of robbery if the defendaunt will plede a releaſe of the appellant of all actions perſonels, this ſeemeth no plee, for an action of appele where the appellaunt ſhal haue

Iudge-

wdgement of death &c. it is more high then an accion perſonall, and it is not properly ſaid an accion perſonal, and therefore if the defendant will haue a releaſe of the appellaunt to barre him of the appele, it behoueth him to haue a releaſe of all maner of accions of appele of releaſe, or of all maner of accions as it ſeemeth it. But in appele of mahym a releaſe of al maner of accions pſonals is a good plee in barre for this that in ſuch an action hee ſhal recouer but damages.

Alſo if a man bee outlawed in an acciō perſonall by proceſſe of the originall and bryng a writ of errour, if he at whoſe ſuit hee was outlawed will pleade againſt him a releaſe of accions perſonals, this ſeemeth no plee, for by ỹ ſaid accion hee ſhal recouer nothing in ỹ perſonalty, but all oneiye to reuerſe the outlarye, but a releaſe in a writte of errour ſhalbe a good plee &c.

Alſo, pf a man recouer dette or dammage & releaſe to the defendaunt all maner of accions, yet he may lawfully ſue execuciō by Capias ad ſatiſfaciendū or by Elegit, or by Fieri facias, for execucion by ſuche writte maye not bee ſayde an accion, but pf after a yere & a day the pleyntife will ſue a Scire facias to haue execucion &c. thā it ſeemeth a releaſe of al accions ſhalbe a good plee in barre, but ſome haue thought the contrary, in ſo much that the writ of Scire facias is a writte of execucion, & is to haue execucion. But in ſo much that vppon ỹ ſame writ ỹ defendant may plede diuers mat-

ters

ters after the iudgement geuen to put him
execution, as outlawry & diuers other &c. t
fore it may wel be ſaid accion &c. and I tr
that in a Scire facias out of a fyne a releas
all manner of accions is a good plee in ba
but where a man hath recouered det or da
mage & it is accorded betweene them that
pleintife ſhalbee put out fro accion than it
houeth that the pleintife make a releaſe is
of al maner accions.

¶ Alſo, if a man releaſe to an other all ma
demaunds, this is the moſt beſt releſe, for
whō the releaſe is made can haue, & moſt b
enure to his auantage, for by ſuch releaſe
maner of demaunds al maner of accions
perſonels, & accions of appeles bee gone &
tinct, and all maner of execution bee gone
extinct. And if a man had title to enter in
landes or tenements by ſuche releaſe, his
is gone. And if a man haue rent ſeruyce o
charge or comon of paſture &c. by ſuche re
of all maner demaundes to the tenaunt of
land whereof the ſeruice or the reentre is
yng out, or in what lande ſo euer the com
bee, the ſeruice and rent, & the common is
and extinct &c.

¶ Alſo if a man releaſe to an other al ma
quarels, or all controuerſies or debates be
tweene them. Enquere to what matter,
what effect ſuch woordes extend.

¶ Alſo, if a mā be bound by his deede to a
ther in certein ſūme of money to pay at
of S. Michael then next folowing &c. if

lige before the ſayd feaſt releaſe to the obligor all actions he ſhalbe barred of the duetye for euer, & yet hee might haue no action at the tyme of the releaſe made. But if a man let lande to another for terme of yeres to yelde at the feaſt of ſainct Michael nexte enſuyng .xl. ſhyllynges and before the ſame feaſte hee releaſethe to the leſſee al actions, yet after the ſame feaſt he ſhall haue an action of Det for the non paymente of the .xl.s. notwithſtanding the ſaid releaſe. Stu by the cauſe of the diuerſitie betwene theſe two caſes.

¶ Alſo, where a mā wil ſue a writ of right it behoueth ẏ he plede of the diſſeiſin of him or of his aūceſters, & alſo ẏ the ſeyſin was in tyme of ẏ ſame king as he pledeth in his plee, for this is an aūcient law vſed as it apereth by report of certayn plee, in ſuche fourm as ēſueth. Sir Thō Barrey brought a writ of right againſt Raynold Aſhlington, & demaūded certaine tenements &c. the meſe was ioyned in the banke, & the originall & the proceſſe were ſent before Juſtices errauntz, where the parties came & the .xij. knights were ſworn without chalīge of the parties to be allowed for this ẏ the election was made by aſſente of the parties wythe the fowre knyghtes, and the othe was ſuch, that I ſhal ſaye trouthe &c. whether B. of A. haue more ryghte to holde the tenrmentes that Jhon Barrey demaūdeth againſt him by his writ of righte or Jhon to haue the tenementes as he demaundeth, and for nothing to lette to

ſay the trouthe as god mee helpe &c. wythoute ſaying to their eſtrming, & ſuch othe ſhalbe made in attaynt, & in battaile, & in ſwaging of law, for thoſe do euery thing vnto an end. But Jhō Warrey pleded of the diſſeiſin of one Rafe hys auncelter in time of king Herry, & Raynold vpō the meſe ioyned tēdered half a mark for the time &c. & vpō this ſaid Clere iuſtice at ỳ graūd aſſiſe, after this ỳ they were charged vpon the clere righte, Goodman Raynolde gaue halfe a mark to the king to the intēt ỳ he ſynde ỳ the auncelter was not ſeiſed in tyme ỳ the demaūdant hath pleded no further vppon the right, & for this ye ſhal ſay to vs whether the auncelter of Jhon Rafe by name was ſeiſed in the time of kyng Henry as he hath pleded or not, & ỳ he ſynd ỳ he was not ſeiſed in the time ye ſhall enquiere no more, & if ye ſynd that he was ſeiſed, than enquiere farther of the right, & after the graūd aſſiſe came wt their verdit, & ſaying that Rafe was not ſeyſed in the time of kyng Henry, whereby it was awarded ỳ Reynold ſhould hold ỳ tenemēts againſte him demaūded to him & to his heirs quite of J. Warrey & his heirs to the remenant, & Jhō in the mercy.

¶ Confirmacion. Cap. 9

A Wede of Confirmacion is moſt commonly in ſuch fourme or to ſuche effect. Nouerint vniuerſi &c. me A. de B. ratificaſſe, approbaſſe, & confirmaſſe C. de D. ſtatū & poſſeſſum quos habet

habeo de ꝛ in meſuagio ꝛc. cū pertinētijs in ſ ꝛ
ꝛ in ſome caſe a deede of confirmacion is good
ꝛ vaylable, ꝛ wherein the ſame cauſe a dede of
releaſe is not good nor vailable. As I let land
to a mā for terme of his lyfe, the which lettely
the ſame land to another for xl. yeares, by force
of the which he is poſſeſſed, if I by my dede cō
firme ꝯ ſtate vnto the tenāt for terme of years
ꝛ the tenant for terme of life dyeth duryng the
terme of his yeares may not enter in the lande
during the ſame terme, yet if I by my deede of
releaſe haue releaſed to the tenant for terme of
yeares in the life of the tenaunt, for terme of
life the releaſe ſhalbe voide, for this that than
no priuitie was betwene me ꝛ the tenaunt for
terme of yeares for a releaſe is not auayable
to the tenaunt for terme of yeares but where a
priuitie is betweene him, and him that releaſ-
eth. In the ſame maner is it I bee diſſeiſed ꝛ
the diſſeiſour maketh a releaſe to an other for
terme of yeares, Alſo if I be dyſſeyſed and I
confyrme the ſtate of the dyſſeyſoure than he
hath a good and rightfull eſtate in fee ſimple
though ꝯ in the dede of confirmacīō no menciō
is made of his heires, for this that hee hadde
fee ſimple at the time of the confirmacīō, for in
ſuch caſe if the diſſeiſy confirme the ſtate of the
diſſeiſour to haue ꝛ to hold to him for terme of
his life, yet ꝯ diſſeiſor hath fee ſiple ꝛ is ſeyſed
in his demeſne as of fee for this that whan his
eſtate was cōfirmed he had fe ſimple ꝛ in ſuch
dede he may not change his eſtate without en

tre vpō him &c. in ꝯ same maner it is if ꝯ estate be cōfirmed for term of a day or for terme of another he hath a good estate in fee simple or cōfirmare firmū facere. Also if ꝯ be disseisours & the disseisy releaseth to the one, he shal hold his felow out of the land, but if the disseisy cōfirm the estate of the one wout more spech in ꝯ dede, some say ꝯ he shal not hold his felow out but he shal hold iointly wt him, for this ꝯ nothig was cōfirmed but his estate ꝯ was ioint, & for this some haue sayd ꝯ if two iointēnts be & the one cōfirmeth the estate of the other, ꝯ he hath but a ioint estate as he had before, but if he haue suche wordes in the dede of cōfirmacion to haue & to hold to him & to his heirs al the tenemēts whereof mēciō is made in the cōfirmaciō, tha he hath estate sole in the tenemēts, & therefore it is a good & a sure thing in euery cōfirmaciō to haue these wordes to haue & to hold the tenemēts &c. in fee or in fee taile or for terme of lyfe, or for terme of yeares after as the cause or the matter is, for to the intent of some if a man let land to another for terme of life & after he cōfirmeth his estate by these wordes to haue and to hold his estate to him & to his heires, thys cōfirmaciō as concerning his heires is voide, for his heires can not haue hys estate which was but for terme of lyfe but if he cōfirme his estate by these wordes to haue the same land to him & to his heires this confirmacion maketh fee simple in this case to hym in the lande for this that they haue & hold &c. goeth in the land

& not

& not to the estate ỹ he hath &c. Also if I let certayn land to a woman sole for terme of hyr life the which taketh a husband, & after I confirme the estate to the husband and to the wyfe for terme of their two liues, in thys case the husband holdeth not ioyntly with the wife but holdeth the right of his wife for terme of hys life but this cõfirmacion shal enure to the husband by way of remainder for terme of his life if he suruiue his wife, but I let land to a woman sole for terme of yeares which taketh a husband, & after I confirme the state to ỹ husbande & the wife for terme of both their liues, in this case they haue ioynt estate in the frank tenement of the land for this that the wyfe had no frank tenement before. Also if a parson of a Church charge the glebe of his church by his deede, & the patron and the ordinary confirme the same graunt & all that is compriled within the same graunt, then the same graunt shalbe in hys strength after the purpose of the same graunt, but in such case it behoueth that the patron haue fee simple in the auowson, or if hee haue estate in the auowson for terme of life or in tayle, then the graunt shalbe but during his life & the lyfe of the person that graunted it &c. Also if a man let land for terme of life which tenant for terme of life chargeth the land with a rente in fee, & he in ỹ reuersion confirmeth the same graũt, this charge is good inough & effectual. Also if ther be a perpetual chaũtry wher of the ordinary hath nothing to meddle nor to do, the patron of the chauntry, and theyr chap-

lain of the same chauntry may charge ỹ chaun try with a rente charge in perpetuitie. Also in some case these verbes dedi & concessi haue the same effect in substaunce and shall enure to the entente as this verbe confirmaui, as if I be disseised of a plough land and after I make such a deede. &c. Sciant presentes &c, quod dedi to the disseysour the sayde plough lande &c. And if I deliuer all onely ỹ dede to him with out liuery of seysin of the lande, that is good confirmacion, and as stronge in the lawe, as if he had in the dede thys verbe confirmaui &c. Also I let lande to a man for terme of yeares, by force of whych he is possessed, and after I make to him a deede &c. Quod dedi vel concessi &c, the same lande to haue for terme of hys lyfe, and delyuer him his deede then by and by he hathe estate in the lande for terme of hys lyfe, and if I saye in the deede to haue to hym and to hys heyres of hys bodye engendred he hath estate in the tayle, & if I saye in the dede to haue and to holde to hym and to hys heyres he hath estate in fee simple, for thys shall enure to hym by force of confyrmacion to enlarge his estate. Also if a man be disseysed, and the disseysour dyeth seysed, and hys heyre is in by discent, after the disseysy and the heyre of the disseysour make ioyntly a dede to another in fee, and liuery of seysin vppon thys is made as to the heyre of the disseysour that ensealeth the dede the tenements passe by ỹ same dede by waye of feoffement, and as to the disseysee that ensealeth the same deede, this shal not en-

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ere but by way of cõfirmacion, but if the diſſeiſ
ee in this caſe bring a writ of Entre in ỹ (Per
e Cui) againſt the alien of the heire of the diſ=
ſeiſor enquire how he ſhal pleade that deede a=
gainſt the demaundant by way of cõfirmacion
ꝛc. And know ye this my childe, ỹ it is one of
ỹ moſt honorable, laudable, & profitable things
in our law to haue the ſcience of wel pleading,
in actions reals & perſonals, & for this I cou=
ſayle thee, ſpecially to ſet thy courage & cure to
learne that. Alſo, if there be lord & tenant, and
the lord confirmeth the eſtate that the tenaunt
hath in the tenemẽts, yet the ſeignory wholy a=
bideth to ỹ lord as it was before. In the ſame
maner it is, if a man haue a rent charge out of
certain land, & he confirme the ſtate that the
tenaunt hath in the land, yet abideth to the cõ=
firme the rent charge. In the ſame maner it is
if a man haue cõmon of paſture in the lande of
any other, if he confirme the ſtate of the tenant
of the land nothing ſhal depart frõ him of hys
common, but this notwithſtandyng the com=
mon abideth to him as it was before.

But if there be lord and tenant which hol=
deth of his lorde by ſeruice of fealtie and xx.s.
a rente, if the lorde by hys deede confirme the
eſtate of the tenaunt to hold by .xij.d.i.ob. or by
i.ob. in this caſe the tenaunt is diſcharged of
all other ſeruice and ſhall yelde nothyng to the
lord but that that is cõpriſed within the ſame
confirmacion, yet if the lorde will by the deede
of confirmacion that the tenaunt in thys caſe

ought to yelde to him an hawke or a rose yerely at such a feast &c. this reseruacion is voyde, for this that he reserueth to him a newe thing that neuer was parcell of the seruices before the confirmacion, & so the lord may abridge the seruices by such confirmacion, but he may not reserue to him a new seruice &c.

¶ Also, if there be lord mene & tenãt, & the tenãt is an abbot that holdeth of the mene by certayn seruices yerely, ỹ which hath no cause to haue aquitance against his mene for to bring a writ of mene &c. In this case if the mene confirme the state ỹ the abbot hath in the land, to haue to hold the land vnto him and his successours in frankalmoigne or free almes &c. In this case this cõfirmacion is good, & then the abbot holdeth of the mene in frankalmoigne, & the cause is for this, ỹ no new seruice is reserued, for all the seruices specially specified, be extinct & nothing is reserued to the mene, but the abbot shal hold of the land, and that was before the confirmacion, for he that holdeth in frankalmoigne ought to do no bodily seruice so the by such cõfirmacion it appeareth that the mene shal reserue vnto him no new seruice, but that the landes shalbe holden of him as it was before, & in this case the abbot shall haue a writ of Mene if hee be distrayned in his defaute by force of the sayd cõfirmacion where perchaūce he might not haue such a writ before &c.

¶ Also, if I be seysed of a villayne, as of a villayn in grosse, & another taketh him out of my

possession

possessiō claiming him to be his villain, & after I confirme the state to him that he hath in my villayn, this cōfirmacion semeth voyd, for this y none may haue possession of a man as of a villayn in grosse, & in so much that he to whō the cōfirmacion was made, was not seised of him as of his villain at the time of the cōfirmacion such cōfirmaciō is void, but in this case if such words were in the dede, Sciatis me dedisse & cōfirmasse tali &c. talē villanum meum, this is good, but this shall enure by force and way of graunt & not by way of confirmacion &c. Also some times these verbes (dedi & cōcessi) enure by way of extinguishment of the thing giuē or graunted. As a tenāt holdeth of his lord by certain rente, & the lord by his deede graunteth to the tenant & to his heires the rent &c. this shal enure to the tenāt by the way of extinguishmt for by this graunt the rent is extinct. In thys same maner it is where one hath a rent charge of certayne land, & he graūteth to the tenant of the land the rent charge, & the cause is for this that it apeareth by the wordes of the graunt, that the will of the donour is, that the tenaunt shall haue the rent &c. in so much that he may haue no rente out of his owne lande, for thys the deede shall be vnderstande and take for the moste aduauntage and auayle of the tenaunte that it may be, and that is is by way of extinguishmente. Also, if I let lande to a man for terme of yeres, and after I confirme his estate without moe wordes put in the deede, he hath

no

no greater estate but for terme of yeares as he had before. But if I release to him my right ỹ I haue in the land without moe wordes put in the deede, he hath estate of franktenement, so maist thou child vnderstād great diuersitie betwene releases & cōfirmacions. And if I be within age and let land to one for terme of .x. yeres, & he graunteth the lande for terme of .x. yeres, so that graunt is but parcel of his terme In this case whē I am of ful age if I release vnto the graūtee of my lease &c. this release is voyde, for this ỹ there is no ꝑiuitie betwene him and me. But if I confirme his estate, thē this cōfirmatiō is good, but if my lesser graūt all his estate to another, then my release made to the grauntee is good & effectuall. Also if a man graunt a rent charge out of his land to another for terme of his life, & after I confirme his estate in the said rent, to haue and to holde to hym in fee tayle, or in fee simple, thys confirmacion is voyde, as to enlargynge of hys estate, for this, that he that confyrmeth had no reuersion in the rent, but if a man seysed in fee of rent seruice or of rent charge, and he graunteth the rente to another for terme of lyfe, and the tenaūt attorneth, and after he confyrmeth the estate of the grauntee in fee tayle or in fee simple, this cōfirmacion is good as to enlarge hys estate after the wordes of the deede of confirmacion, for this, that he that confyrmeth the estate at the time of the confirmacion had the reuersion of the rent &c. But in thys case

afore:

herelayd, wher a man graũteth a rent charge
to another for terme of lyfe, if he will that the
grauntee shall haue estate in the tayle or in fee
then behoueth that the dede of the grauntee of
the rent charge for terme of lyfe, bee resurren-
dred or cancelled, & then to make a new dede
of such a rent charge to haue and to take to the
grauntee in the taile or in fee. Ex paucis dictis
intendere plurima potes.

¶ Attournement.
Cap. x.

Attournement is if there be lord & tenant &
the lord wil graunt by his deede the seruice
of his tenant to another for terme of yeares or
by terme of lyfe or in tayle or in fee him behe-
uith that the tenant attorn to the graũtee in ꝑ
lyfe of the grauntour by force and vertue of ꝑ
graũt or otherwise the graũt is voyde and at-
tournement is none other thyng in effecte, but
when the tenant hath hard of the graũt made
by his Lord, that the same tenant by word a-
gree to the said graunt, as to say to ꝑ graũtee,
I agree me to the graunt made to you, or I
am wel content of the graunt made to you &c.
but the more common attournement is to say,
sir I attorne to you by force of the same graũt
& I become your tenant &c. or to deliuer vnto
the grauntee .i.ẽ. ob. or farthyng by waye of
attournement &c.

¶ Also if a man bee seysed of a manour which
manor is parcel in demesne & parcel in seruice
if hee

if he will alien in such maner to another, it be-
houeth that by force of the alienat al the tenu-
that holde of the alienor as of thys maner &c.
attourne to the alienor or otherwyse the seruy-
ces abide continually in the alienor, except te-
nauntes at wyll, for it nedeth not the tenaun-
at will attourne vppon such alienacion &c. by
thys that the same landes or tenementes tha
they holde at wil do passe to the aliene by force
of such alienacion.

¶ Also if there be Lorde and tenaunt, and the
tenaunte letteth the tenementes to a man for
terme of life the remaynder to another in fee, &
the Lord graunt the seruyces to the tenant for
terme of life in fee in this case ỹ tent for terme
of life hath fee in the seruices, but seruyces be
put in suspence during his life, but hys heires
shal haue the seruices after his death, & in this
case it nedeth not an attournement, for by the
acceptance of the dede of him that ought to at-
torne, this is attornement in hym selfe &c. but
where the tenant hath as greate & hygh estate
in the tenementes as the lord hath in the seyg-
niory, in such case if the Lord graūt the seruy-
vnto the tenant in fee thys enureth by way of
extinguishment. Causa patet.

¶ Also, if there be Lord & tenant & the tenant
maketh a lease to one for terme of life, saving
the reuersiō vnto him, if the lord graunt ỹ seyg-
niory to the tent for terme of life in fee, in this
case it behoueth ỹ he in the reuersiō attorne to
the tent for terme of life by force of ỹ graunt or
otherwise the graūt is void for this that he is

the

reuerſion is tenaunt to the lord.

Alſo if there be lorde and tenaunt, and the naunt holdethe of the Lorde by twenty man= of ſeruices, and the lord graunteth his ſeig= ory to another if the tenaunt paye or dooe e of the ſeruice to the grauntee, thys is a od attournemente of, and for the ſeruices oughe that the tenauntes entent was to at= rne but of the ſame parcell, for this that the mourye is an whole thing, thoughe ꝑ ther diuers maner of ſeruices that the tenaunt ght to doo.

Alſo if there bee Lorde and tenaunt and the naunt holdeth of the Lorde by manye maner ſeruices and the Lord grãteth the ſeruices another by fyne, yf the grauntee ſue a Sci= facias out of the ſame fyne for any parcel of ſeruices & hath iudgement to recouer this gement is a good attournement in the lawe al the ſeruices.

Alſo yf the Lorde of the rent graunteth the ices vnto another, and the tenaunt attour h by a peny and after the grauntee diſtray= for rent behynde, and the tenaunt to him ethe reſcous, In thys caſe the grauntee ll not haue aſſiſe of the rent but hee ſhall ue a writ of reſcous for that the gyft of the y was but by way of attornement. But if tenaunt had geeuen vnto the grauntee the d peny as parcell of the rent or an halfe pe= or a farthyng by waye of leyſin of the rent, n thys is a good attournement and alſo yt

is

is a good seisin to the grauntee of the rent
then vpon such rescous the graunte shall
assise &c.

¶ Also if a man let tenements for terme of
res by force of which the lessee is seysed,
ter the lord grāteth by his dede of the re
on for terme of life or in taile or in fee, it
ueth him in this case ỹ the tenant for term
yeares attorne, or otherwise nothing passeth
the graūt by such deede, & if in this case ỹ
for terme of yeares attorne to the graūte,
by & by passeth the franktenement on ỹ gra
tee by such attournement wout any liuerye
seisin &c. for this if any liuerye shalbee m
needeth to be made in suche case, then the
for terme of yeares shalbe at time of the
of seysin out of his possession which should
against reason.

¶ Also if lande bee let to a manne for te
of yeares the remaindre to another for te
of ỹe reseruyng to the lessour a certayne
by yeare and ỹuerye of seisin is made by
thys to the tenaunt for terme of yeares, if
the reuersion in suche case graunt hys rent
on to another &c. and the tenaunt that is in
remainder after the terme of yeares attorne
this is a good attournement, and hee to wh
the reuersion is graunted by force of suche
tournement shal distrayn the tenant for te
of yeares for the rent due after suche attou
ment though the tenant for terme of yeres
tier attourned vnto hym, and the cause is
th

at where the reuersion is dependaunt vpon
e state of fraunktenement, it sufficethe that
e tenant of the frā ktenement atturne vppon
ch graūt of reuersion ꝛc. & it is to wit, that
here a lease for term of yeares or for terme of
, or a gift in the taile is made to any mā, re=
ruing to such a lessor or donor certain rent, if
h a lessour or donour graūt his reuersion to
other, & the tenāt of the land attourne, the
nt passeth to the graūtee, though in the deede
the graūt of reuersion, no mēcion is made of
e rent, for this, ỹ the rente is incident to the
uersion in such case, & not reuersio. For if a
l will graūt the rēt in such case vnto another
ruing to him the reuersion of the lande,
oughe the tenaunt attourne to the grauntee,
shalbe but a rēt seck ꝛc.

¶ Also, if a man let lande vnto another for
rme of lyfe, and after suche lease hee confir=
the by a deede the estate of the tenaunt for
me of lyfe, the remaynder to another in fee,
the tenaunt for terme of lyfe accepteth the
e, than is the remainder in deede to hym to
om the remaindre was geeuen or ymitted
the same deede, for by the acceptaunce of the
aunt for terme of life of the same deede this
graunt of hiun and so an attournement in
e, but yet hee in the remaynder shall haue
e action of waste nor other benefite by such
mainder, but if that he haue the same deede in
hand, by which the remainder was graū=
vnto hym, and for thys that in suche case

the

the tenaunt for terme of life will retayn to him the deede, to the entente that hee in the remainder shall haue no action of waste against him, for thys that hee maye not come to haue the possession of the deede &c. It shalbe good in suche case for him in the remainder, that a deede indented be made by him that will make the confirmacion, and the remainder ouer &c. And hee that maketh such confirmacion deliuer a parte of the Indenture to the tenaunt for terme of life, and the other parte to him that hath the remaynder. And thanne hee by the wyng of the parte of the indenture maye haue an action of waste agaynste the tenaunt for terme of lyfe, and al other aduantage that he in the remainder may haue in such case.

¶ Also, if twoo ioyntenauntes bee, whych letteth the lande to another for terme of life, rendyng land to them and theire heires a certayn rente by yeare. In this case yf one of the two ioyntenauntes in the reuersion releaseth to the other ioyntenaunt in the same reuersion, this release is good, and hee to whom the release is made, shall haue onely the rente of the tenaunt for terme of lyfe, and shall haue a writte of waste against them thoughe hee neuer attorned by force of such release, and the cause is for the priuitie that once was betweene the tenaunt for terme of lyfe, and them in the reuersiō. In the same maner, and for the same cause it is, where a man letteth lande to another for terme of hys life, the remaynder to another

for

for terme of his life, reser vpng the reuersion to the lessour, in this case if he in the reuersion release to him in the remaynder &c. and to hys heyres all his ryght &c. then he in the remainder hath a fee &c. and shal haue a writ of waste against the tenaũt for terme of life wout anye attornement of him &c.

¶ Also, if a lease be made for terme of life the remainder vnto another in the taile, ỳ remainder ouer to the right heirs of ỳ tenãt for terme of life, in this case if the tenãt for terme of life graũt his remainder in fee to an other by hys dede, ỳ remaindre by ỹ by passeth by his deede wout any other attornement. For if any ought to attorne in this case, it should be the tenaunt for terme of life. And it were in vain ỳ hee attorne vpon his owne graunt &c.

¶ Also, if there be lord and tenaunt, and the tenaunt holdeth of the Lorde by certayne rent and knightes seruices, if the Lorde graunt the seruices of the tenaunt by fine, the seruices bee by and by in the grauntee by force of the fyne, but yet the Lord may not distrain for any parte of his seruices without attornement. But if the tenaunt dye his heyre being within age, the lorde shal haue the ward of the body of the heire and of the lande &c. howbeit that hee neuer attourned. For this ỳ the seignorye was in the graunte maintenãt by force of the fyne. And also in some case if the tenaunt dye without heire, the lorde shal haue the tenauncye by way of eschete. In the same manner it is pf a

man graūt the reuersion to his tenant for term of life to another by fyne, the reuersion passeth not to the grauntee by force of the fyne, but the grauntee shal neuer haue action of waste without attournement &c. But yet if the tenant for terme of life alieneth in fee, the grauntee may enter &c. for this that the reuersion was in hym by force of the fine, & such alienaciō was to his disenheritāce. But in this case where the lorde graunteth the seruices of his tenant by fine, & the tenant dye, his heires being of full age, the grauntee by the fyne shall not haue the relefe, nor neuer shall distreine for the relefe except there had been some attournement of the tenāt that dyed &c. for of suche thinges that lieth in distresse, vpon the whiche a writ of Replegiare is sued &c. a mā ought to auowe the taking good and rightcous &c. there ought to be attournement of the tenant. Howbeit ỹ the graunt of such seruices be by fyne. But to haue ward of landes and tenementes so holden during the nonage of the heire or of them to haue by way of eschete, there nedeth not anye dystresse &c. but an entre in the land by force of the right of the seignoury that the graūte hath by force of the fyne.

¶ Also in auncient Boroughs or Cyties where tenementes within the same boroughs or cities been diuysable by testamente by the custome and the vse &c. if in suche borough or citie a man bee seysed of rent seruice of the rent charge, and he deuyseth suche rent or seruice to ano-

another by his testament & dyethe &c. In this case he to whō the deuise is made may distrain for the rent or the seruices behynd, howbeit that the tenant neuer attourned. In the same manner it is where a man letteth such tenementes deuisable to another for terme of life or for terme of yeares, & deuised the reuersion by his testament to another in fee or in fee taile & dyeth, & anone after that the tenant maketh wast, he to whō the deuise was made shal haue a writ of wast, howbeit that the tenant neuer attourned, & the cause is for this that the will of the deuisor made by the testament, shalbe performed after the intent of the deuisour, & so the effect of this dyethe vpon the attourning of the tenaunt &c. Then percase the tenaunt wouldе neuer attourne, then the will of the deuisour shoulde neuer be performed, and therefore the deuysee shall distrayne or haue an action of waste &c. without attournement, for if a man deuise such tenements to another by his testamente (habend sibi imperpetuum) and dyethe, and the deuisee entreth he hath a fee simple, cause qua supra, & yet if a deede of feoffement were made to hym by the deuysoure of the same tenemente (habendum & tenendum sibi imperpetuum) & vpon that were neuer thereupon made, yet shall haue none estate but for terme of life &c.

¶ Also if a manne seised of a Mānoure whyche is parcell in demeane and parcell in seruices and therof fee dysseysed but the te-

tant holden of the manour, neuer attorneth to the disseisour in this case, howbeit ꝑ the disseisor dye &c. & his heir is in by discēt, yet may the disseisy distrayne for the rent being behynd & haue the seruice, but if the tenants come to ꝑ disseisour & say we be come your tenants &c. or otherwise made by attournement to him &c. & after the disseisour dieth seised &c. thē the disseisy may not distraine for the rent, for this ꝑ all the maner descendeth to the heire of the disseisour. But if one hold of me by rēt seruice whiche is a seruice in grosse, & another ꝑ no right hath, claimeth the rent & receiueth & taketh the same rent of mye tenant by occasion of distresse or by other fourme and so disseyseth me by takyng such rent, howbeit that such a disseysour dye seysed by such takyng of the rent, yet after his death I maye well distrayne for the same rēt being behynd before the death of ꝑ disseisy & after his death, & the cause is this, ꝑ such is not my disseisour but by election at my will, howbeit that he tooke the rent of the tenant I may at all tymes dystrayne my tenaunt for the rent behynd &c. so it is to mee but as I will suffer the tenaunt to bee by so much tyme behynd of payment to mee of the same rente, in the payment of my tenaunt to another to whom hee ne ought to paye is no disseisin to mee nor shall not put mee oute of my rente wythoute my will and election, for howbeit that I maye haue assise agaynst suche a taker &c. yet thys is at my election yf I will take him as

my

my disseisour, or not so that suche discentes of rents in grosse ne putteth not out the lords fro their distresse, but that at eche time they may well distrayne for the rent behinde, and in this case if after the decease of him y so wrongfully take the rent. I graunt by my deede the seruices to another & the tenaunt attorneth, thys is good inough, and the seruices by such graunt & attornement incontinent be in the grauntee &c But otherwise it is where the rent is parcell of the manour and the disseisour dieth seised of the whole manour, as in the case beforesayd.

¶ Discontinuance. Cap. xj.

DIscontinuaunce is an auncyent woorde in the law, and hath diuers significations &c. but as to one entent it hath such a signification, that is to say, where a man hath aliened to another certayne landes or tenementes, and dieth, and another hath right to haue the same landes or tenementes, but hee ne may enter in them bicause of such alienacion &c. As if an abbot seysed of certayne landes and tenements in fee, and he alieneth the same landes and tenementes to another in fee tayle or for terme of lyfe, and the abbot dyeth his successour may not enter in the same landes and tenementes, howbeit, that if that he hath right to haue thē as in the ryghte of the house, but hee is put to his action to recouer the same landes or tenementes which is called a writ de ingressu sine

offenku capituli.

¶ Also if a man seysed of lande as in the right of hys wyfe &c. and therof enfeoffeth an other &c. and dyeth, the wyfe ne may not enter but she is putte vnto hir action the which is called Cui in vita.

¶ Also if tenant in the tayle of certayne lande therof enfeoffe another &c. and hath yssue and dieth &c. his issue may not enter in the lande, howbeit that hee hath right and title to that, but that he is put to his action, that is called a Formedone in the discender.

¶ Also if there be tenant in the tayle & the reuersion is to the donour & to his heires if the tenãt make a feoffemẽt &c. and dieth without issue, he in the reuersion may not enter, but is put to his action of Formedon in the reuerter, & in the same maner it is where the tenaunt in the tayle of certayn land where the remaynder is to another in the tayle or to another in fee, if the tenant in the tayle alieneth in fee or in fee taile &c. & after dieth without issue, they in the remaynder may not enter, but be put to their writ of formedon in the remaynder &c. and for this that by force of such feoffemẽt & such alienacions in the cases aforesayde, & in like cases they which haue title & right after the death of such a feoffor or alienor may not enter but be put to their actiõs vt supra. Therfore such feoffemẽts & alienaciõs be called discõtinuances.

¶ Also if a tenant in the tayle be disseysed, & he releaseth by his deede to the disseysour & to his heires

heires al the right that he hath in ỹ same land, this is no discontinuance, for this ỹ nothing of right passeth to the disseysour but for terme of life of ỹ tenaunt in the taile ỹ made the release &c. But by the feoffemẽt of tenaunt in the taile, a fee simple passeth by the same feoffement by force of liuery of seysin &c. but by force of a release nothing passeth but the right that he may lawfully & rightfully release without hurt or damage to other persons which thereto haue right after his decease &c. and so it is a great diuersitie betweene a feoffement of the tenant in the tayle & a release of the tenant in the tayle. But it is said that if tenant in the tayle in this case release to the disseisour & bindeth him and his heires to warrantise &c. and dyeth, & thys warrant descendeth to his issue, then that is a discõtinuance because of warrãtise &c. But yf a man haue issue a sonne by his wife & dyeth, & after he taketh another wife, & the tenements be giuen to him and his seconde wife, & to the heyres of their two bodies engendred, & they haue issue another sonne, then the second wife dieth, and after the tenant in the taile is disseased, & he releaseth to his disseysor all his right &c. and bindeth him and his heyres vnto warrantise, and dieth, this is no discontinuance to the issue in the tayle by the second wife, but he may wel enter &c. for this that the warrantise descended to hys elder brother, that his father had by his first wife.

In the same maner where tenemẽts be descen-

dable to the ponger sonne after the custome of borough English be entayled &c. & the tenaunt in the taile hath issue two sonnes & is disseised & he releaseth to his disseisor al his right with warrantise & dieth, the ponger sonne may enter vpon the disseisor notwithstãding the warrantise, for this that the warrantise descẽdeth to ỹ elder sonne, for alway the warrantise descẽdeth &c. to him ỹ is heire by the cõmon law.

¶ Also, if an Abbot be disseysed, and he releaseth to the disseysour with warrantise, thys is no discontinuance to his successour, for thys ỹ nothynge passeth by this release but the ryght that he hath duryng the time that he is Abbot and this warrantise is expired by his prouisiõ or by his death.

¶ Also, if tenaunt in the tayle be seysed of certayne lande, and hee letteth the same lande by terme of peres, by force of which lease the lesse is in possession, to whych possession the tenaunt in the tayle by his deede releaseth al his right that he hath in the same lande to the lesse and to his heyres for euer, this is no discõtinuaunce, but after the decease of the tenaunt in the tayle, hys issue may well enter, for thys that by suche release nothynge passeth but for terme of lyfe of the tenaũt in the tayle. In the same maner if the tenant in the tayle confirme ỹ estate of the lessee for terme of certayne peres to haue and to holde to him and to his heyres, thys is a dyscontinuaunce, for thys that nothynge passeth by suche confirmacion, but the

estate

estate ꝑ the tenaunt in the tayle had for terme of his life.

¶ Also, if a tenāt in the taile by his dede graunt to another all his estate that he hath in the tenements entayled to him, to haue & to hold all his estate to the other & to his heires for euer, & deliuereth seysin accordyng. In this case the tenant to whom the alienaciō was made hath none other estate but for terme of life, and so it may wel be proued that the tenant in the tayle may not graūt ne alene ne make any rightful estate of the franktenement to another person but for terme of his owne life &c. For if I giue certain land in the taile to a man, sauing the reuersion to me, & after the tenaunt in the tayle enfeoffeth another in fee, ꝑ feoffe hath no right estate in the tenements for two causes. One is for that by such feoffement my reuersion is discontinued which is a wrong acte & not a rightful acte. Another cause is, if the tenant dye and his issue sueth a writte of Formedone against the feoffee, the writte shal say & also the declaration that the feoffee wrongfully hym defor-ced, he had no right estate.

¶ Also, if lande be let to a man for terme of hys lyfe, the remainder to another in the tayle if he in the remainder wil graunt his remainder to another in it by his dede, and the tenaūt for terme of lyfe attourneth, this is no discontinuance of the remainder.

¶ Also if a man be tenaunt in the tayle of aduowson in grosse or of cōmon in grosse, if he

by his

aduowson in grosse or of cõmon in grosse, if he by his dede wil graũt the aduowson or the cõmon to another in fee, this is no discontinuãce for in such case the graũtee hath no estate but for terme of the tenaunt in the tayle that made this graunt &c. Note wel that such thinges as passe by way of graunt made by dede, and not by acte in the countrey &c. such graunt maketh no discontinuance as in the case aforesayd and other like cases &c. And howbeit ỹ such things be graũted in fee, by fine leuyed in the kynges court &c. yet they make no discontinuance &c.

¶ Also, if a man be seysed in tayle of landes deuisable by testament &c. and he deuiseth it to an other in fee, and dyeth, & the other entreth, this is no discontinuance, for this that no discontinuaunce was made in the lyfe of the test in the tayle &c.

¶ Also, if an abbot haue a reuersion or a rent seruice, or a rent charge, and wyll graunt that reuersion, rent seruice, or rent charge to another in fee, and the tenant attorneth &c. this is no discontinuaunce. In the same maner it is where an Abbot is seysed of aduowson or of such thinges that passe by way of graũt without liuery of seysin &c.

Also, if there bee graundfather, tenaunt in the tayle, father and sonne, and the graundfather is disseysed by the father, and the father maketh a feoffement in fee wythout warrantise and dyeth, and after the graundfather dyeth, the sonne may well enter vpon the feoffee for

for this that this was no discontinuance, in so much ỹ the father was not seysed by force of ỹ tayle at the time of the feoffement &c. but was saised in fee by disseisin made to ỹ graūfather.

¶ Also if a woman inherite haue an husband within age, whych maketh a feoffement of the tmementes of the wife and dyeth, it hath been questioned if the wife may enter or not. And it seemeth to some men that the entre of the wife after the death of hir husbande shall bee lawfull in thys case, for when hyr husbande made such a feoffement &c. he myght well enter notwithstanding suche feoffement duryng the couerture, and hee might not enter in hys owne right but in ỹ right of his wyfe &c. Ergo such right that he had to enter in the ryght of his wyfe &c. ỹ ryght of enter abydeth to the wife &c. after his decease, & it hath been sayde ỹ if two iopntenaunts being within age made a feoffemēt in fee & one of the children dieth and the other suruiueth, in so much that both children myght enter iopntly in their lyues, thys right of entre groweth all to him that suruyueth, and so he may enter into the whole &c.

¶ Also the heyre of the husband that made the feoffemēt within age may not enter, for thys ỹ no right descendeth to such an heire in the case aforsayd for thys that the husband had neuer any thing but in the right of his wife. And also when a chylde maketh a feoffement beyng within age this shal neuer grieue nor hurt him but that he may wel enter &c. And this shoulde

be

be agaynſt reaſon that ſuch a feoffement made by him that was not able to make ſuch a feoffement ſhal grieue or hurte other to toll other of theyr entryes &c. And for theſe cauſes it ſeemeth to ſome ỹ after the death of ſuch an huſband ſo being within age at the time of the feoffement &c. that his wife may well enter &c.

¶ Alſo if a woman inheretrice taketh an huſbande & hath iſſue a ſonne & the huſband dieth, & ſhe taketh another huſband, and that ſecond huſband letteth ỹ land that he hath in the right of his wife to another for terme of his life, and after the wife dieth & after the tenãt for terme of life ſurrendreth his eſtate to the ſecond huſband &c. Enquire if the ſonne of the wife may enter or not in this caſe vpõ ỹ ſecond huſband during the lyfe of the tenaunt for terme of lyfe. But it is cleere lawe in thys caſe that after the deathe of the tenaunte for terme of lyfe, the ſonne of the wyfe may well enter, for thys that the diſcontinuance that was made alonly for terme of lyfe is determined &c. by the death of the ſame tenant for terme of life &c.

¶ Alſo if the parſon or vicar of a church alien certayne landes or tenementes parcell of hys glebe &c. to another in fee & dieth or reſigneth &c. his ſucceſſour may wel enter, notwithſtandyng ſuch alienacion as it is ſayde in a Nota, Anno. ij. H. 4. Termino Mich. quod ſic incipit. Nota quod dictum fuit pro lege. In a writ of Accompte brought by the maſter of the colledge, ỹ if a pſon or a vicar graũt certain lãds

..t is of the right of his churche to another &
..th or chaũgeth ỹ his successour maye enter.
..nd I trowe the cause is for this that the per
..n or vycar that is seysed &c. in right of the sim
.. dwellyng in any other person. And for thys
..use his successour may well enter, notwithe=
..nding suche alienaciõ &c. for a Byshop may
..ue a writ of right of tenementes of ryghte of
..is Byshopriche for this that the righte of fee
..mple abydeth in him & in his Chapiter, and
.. Deane may haue a wrypt of right &c. for this
..at the right abideth in him and his Chapiter
.. an Abbot may haue a writ of right, for thys
.. ỹ right abidethe in him & in his couẽt, & sic de
..gis casibus cõsimilib⁹ &c. but a psõ or a vicar
..ay not haue a writ of right &c. but ỹ hyghest
..rit that theye may haue, is a writ de Juris
..trum, the whiche is a greate proofe that the
..ght of fee simple is in abeyãce, that is to say
.. onelye in the remembraunce, entendement,
..nd consideration of the lawe, for me seemethe
..at such a thyng in suche a ryght that is sayd
..n diuers bookes to bee in by abeyaunce is as
..uche to say in latin. S. talis res vel tale rec=
..um que vel quod non est in homine adhuc
..uperstite, sed tantummodo est & consistit in cõ=
..deratione & intelligentia legis &c. & quidam
..liĩ dixerunt talem rem aut tale rectum fore in
..ubibus &c.

But I suppose that they vnderstand by these
woords in nubibus &c. as I haue sayd before.
¶ Also if a person of a Churche dye, nowe the
frank=

frāktenement of the glebe of the personage
no mā duryng the time ỹ ỹ personage is void,
but is in abeyaunce, ỹ is to say, in consideracō
& intelligence of the law, till another bee made
person of the same Church, & immediatly whē
another is person the frankstenement in deede is
to him as successour.

¶ Also some men peraduenture will argue &
say, ỹ in so much ỹ the person wt the assent of ỹ
patrone & Ordinary, may grant a rent charge
out of the glebe of his personage in fee, and so
charge the glebe of the personage perpetually.
Ergo they haue fee simple, or two or one of them
hath fee simple at the least &c. To this it may
bee answered ỹ it is a principle in law, that
of euery land there is a fee simple in some man
or els the fee simple is in abeyaunce &c. And
another principle is, ỹ euery land of fee simple
&c. may be charged with a rente charge in fee,
by one waye or by another &c. and whan such
rent is graunted by the deede of the person, the
patrone and the Ordinarye in fee, none shall
haue no preiudice or losse by force of such
graunte. But the grauntours in their lyues,
& the heires of the patrone, and successor of the
Ordinary after their deceases, and after such
charge ỹ the person dye, hys successour may
not come to the sayd Churche to bee person of
the same churche by the lawe. But by presen-
ment of the patrone and admission and institu-
cion of the Ordinarye &c. And for this cause it
behoueth that the successour holde him conten
and

nd agreed with that which his patrone & Or
dinary lawfully haue done before. But ỹ cause
ỹ suche rente charge is gon for this is ỹ they
which had entries inỹ said church, ỹ is to say ỹ
patrone after the law tẽporal, & the Ordinarye
after the law spiritual, were assenten as par-
ties vnto such a charge &c. & this seemethe the
very cause ỹ such glebe may be charged in per-
petuitie &c.

¶ Also if a Bysshop aliene lands which beens
parcel of his bishoprik, & dieth, this is a discon-
tinuance to his successor, for this, ỹ he may not
enter, but is put to his writ De ingressu sine
assensu Capituli &c.

¶ Also, if a Deane aliẽ lãd parcel of his Dean-
rye & dieth, his successor ne maye not enter, but
he may haue a writ de ingressu sine assensu E-
piscopi & capituli &c.

But if the Deane & the Chapiter haue lãd to
hys & to their successours in common &c. How-
beit ỹ the Deane aliene suche lands his succes-
sours may wel entre, for this that the franktẽ
nement at the time of the alienacion, was as
wel in ỹ Chapiter as in the Deane. But whe
n the Deane is sole seised as in right of hys
Deary, than such alienacion is discontinuãce
to his successour, as it is afore sayde. Also some
men will argue and say, that if an Abbot & his
conuent be seised in their demeane as of fee, of
certayne land to them and to their successours
& and the Abbot whithoute assente of his co-
uent alyeneth the same lande vnto another,

and

& dieth, this is a discontinuance to his succe
sours &c. & by the same they wil say, ꝑ where
Deane & a Chapiter be seised of certayn lād
thē or to their successours, if the Dean alie
same lāds &c. this shalbe a discontinuaunce
his successours. So ꝑ his successor ne may
enter &c. To this may be aūswered, ꝑ there
a great diuersitie betweene the said two cause
for whā an Abbot & the couent be seised &c.
if they be disseised, the Abbot shal haue assise
his owne name whoute the nampng of hys co
uent &c. And if a man mape or will sue a Bre
cipe quod reddat of the same landes whā they
be in the handes of the Abbot and hys couent,
it behoueth that such an actiō be sued agaynst
the Abbot onely without naming of the couē
&c. for this, that al they be dead persones in the
law, saue only the Abbot ꝑ is soueraigne &
thys is cause of the soueraigntye &c. for els he
should be as one of the other monks of the co
uent &c. But the Deane & the Chapiter be as
dead persones in the lawe &c. For ech of them
may haue an action by himselfe in diuers ca
ses, and of suche landes or tenementes which
the Deane & Chapiter haue in common &c. ꝑ
they be diseased, that the Deane & the Chapi
ter shall haue assise, & not the Dean alone, & ꝑ
another wil haue an actiō reall of such lāds or
tenements against the Deane &c. it behoueth
him to sue agaynste the Deane and Chapiter,
& not agaynst the Deane alone &c. & so appe
reth great diuersitie betweene these two cases.

¶ Also if the maister of an hospitall discontinue certein land of his hospitall, his successors may not enter, but hee is put vnto his writ De ingressu sine assensu confratrū & sororum suarum, & al such writs do plainly appere in ỹ Register &c.

¶ Remitter. Cap.xii.

REmitter is an auncient tearme in the lawe, and it is where a man hath two tytles to lands or tenements, that is to saye, of an elder tytle, and an other of the latter tytle, and hee commeth to the land by the latter title, yet the lawe adiudgeth him to bee in the force of the elder title, for this that the elder tytle ys the more sure tytle, and the more woorthy tytle, and then when a man is iudged in by force of the more elder tytle, thys is vnto him sayde a Remitter, for this ỹ the lawe shal admyt him to bee in the lande by the elder tytle, as yf the tenaunt in the taile discontinue the tayle, and after he disseaseth his discontinue, and so dyeth seised, whereby the tenementes discende to his issue, as to his cosin inheritable by force of the taile, in this case this is to him whome the tenementes discende whyche hath ryght by force of the tayle, a Remitter in the tayle taken, for that, that the lawe shall put and adiudge hym to be in by force of the taile, which is his elder tytle, for if hee shall bee in by force of discent, then the discontinue maye haue a writte of Entre vppon the disseisyn in ỹ Per, against him, and recouer the tenementes, and

his dammages, but in so much that he is in by force of the taile, the tytle and the interest of the discontinue, is all vtterly adnulled and defeated &c.

¶ Also if tenaunt in the taile infeoffe in fee his sonne or his cosine inheritable by force of the tayle, the whiche sonne or cosin at the tyme of feoffement is within age, and after the tenant in the taile dyeth, and hee to whome the feoffement was made is his heire by force of the tytle in the taile, this is a Remitter to the heyr in the taile, to whome the feoffement is made. For howbeit that during the life of the tenant in the taile that made the feoffement, such heir shalbe adiudged by force of the feoffement, yet after the death of the tenaunt in the taile, the heire shalbee adiudged in by force of the tayle &c. & not by force of the feoffement, and though that suche an heire was of full age at the tyme of the death of the tenant in the tail that made the feoffement, this maketh no matter if the heire were within age at the time of the feoffement made to him, and if such an heire being within age at the time of the feoffement cometh to full age ivning the tenaunt that made ye feoffement, & so being of full age, hee chargeth by his deede the same lande with a comon of pasture, or with a rent charge, and after the tenaunt in the taile dyeth. Howe it seemeth that the lande is discharged of an other estate in yt lande, then hee was at ye tyme of the charge made, &

so much that hee is in his remitter by force of the taile, and so the estate that he had at ỳ time of the charge is vtterly defeated &c.

¶ Also a principall cause is why such an heire in the cases aforesaide, and other cases semblable shalbe said in his remitter, is for this, that there is no person against whome that he may sue his writ of Formedone, for against hym till hee may not sue, & he may not sue against none other, for none other is tenant in ỳ frãchmement, & for that cause the lawe adiudged hym in his remitter that is to say i such plight as he had lawfully recouered the same land against an other.

¶ Also if land be tailed to a man and hys wyfe, and to the heire of their two bodyes engendred the which hatie yssue a daughter, and the wyfe dyeth, and the husband taketh an other, and hath issue an other daughter, & discontinueth the taile, and after he disseiseth the discontinue, and so dyeth seised, now the land descendeth to the two daughters, in thys case as to the elder daughter that is inheritable, this is a Remitter but of the halfe, and as to the other halfe, she is put to her action of formedon against her sister, for in this case twoo sisters bee not tenauntes in percenary, but bee tenants in common, for thys ỳ they bee in by diuers titles, for the one sister is in her remitter by force of the taile, as to that that vnto her belongeth. And the other sister is in as to that, that belongeth to her in fee simple by the

diſcent of her father. In the ſame maner ye is if the tenaunt in the taile enfeoffe hys heyre apparaunt in the tayle being the heire wythin age, and an other ioyntenaunt in fee, & the tenant in the tayle dyeth. Now the heire in the taile is in his remitter as to the halfe, & as to ỹ other half he is put to his writ of ſeizin &c.

Also if tenant in the taile enfeoffe his heire apparant, ỹ heire being of ful age at tyme of ỹ feoffemẽt & after ỹ tenant in taile dyeth this is no remitter to ỹ heire, for this that it was his own folly, that hee being of ful age would take ſuch feoffemẽt &c. But ſuch folly may not be adiudged in the heire being within age, at the tyme of the feoffement &c.

Also if tenaunt in the tayle enfeoffe a ſeconde manne in fee, and dyeth, and his iſſue wythin age taketh the woman to wife, this is a remitter to the childe, and the wife then hath nothing, for this that the husband and the wyfe been but one perſone in the lawe. And in that caſe the husband may not ſue a writte of Formedone, but after hee will ſue againſte hym ſelfe, the whiche ſhalbee inconuenient, and for that the lawe iudgeth the heire in his remytter for this that no folly may be areted to him beeing within age at the tyme of ỹ ſpouſayles &c. And if the heire bee in his remitter by force of the tayle, it folowyeth by reaſon that the wife hath nothing &c. for in ſo muche that the husbande and the wife bee but one perſon, the lande may not bee ſeuered by halfes, and for ſuche cauſe the husbande is in his remitter of

the

the whole. But otherwise it is, if such an heire of full age at the tyme of the spousaules, than the heire hath nothing but in the ryghte of his wife.

¶ Also if a woman seised of certeine lande in fee, taketh an husbande, the whiche alieneth y same lande to an other in fee, and the alienee letteth the same lande to the husbande and the wife for terme of theire twoo lyues, saupnge the reuersion to the lessour, and to the heyre, in this case the wife is in her remitter, and shee is seised in deede in her demean as in fee, as shee was before, for this that the takyng of estate shalbee adiudged in the law the deede of the husbande, and not the deede of the wife, so that no folly maye bee iudged in the wife that is couert in such case. And in this case the lessour hath nothing in the reuersion for this that the wyfe is seised in fee. But in this case if the lessour will sue an accion of wast againste the husbande and his wife, for this that the husband hath made wast, the husbande maye not barre the lessour for to shewe this that the taking of estate made vnto hym and to his wyfe made a Remitter to his wife, for this that the husbād is stopped to say this against his feoffement and one reuysell of estate for terme of lyfe to him and his wyfe, and yet the lessour hath no reuersiō, for this that the fee simple is in the wife, so a man may see a matter in thys case, that a man shalbee stopped by a matter in deede, thoughe no writing by deede inden-

ted or otherwise bee thereof made. But yf in accion of waste the husband make defaulte at the graunde distresse, and the wyfe prayeth to bee receiued, and is receiued, shee shall well shew all the matter, and how she is in her remitter, and shall barre the tessour of hys action. For in euery case that the wyfe is receiued for default of her husband, shee shall plead and haue the same aduauntage in pleading as she were a woman sole. And how be it that ỹ alienee made no lease to the husbande and hys wyfe by deede endented, yet thys is a remitter to the wife, and thought the alyene yelded the same lande to the husbande and hys wife by fyne for terme of theire lyues, yet thys is a remitter to the wyfe, for this that the wyfe couert that taketh estate by fyne shall not be examined by the Justices. And here note well that when anye thing shall passe fro the wyfe that is couert of husbande by force of a fyne the husbande and hys conusaunce of ryght to an other &c. or make a graunt and yeld to another or release by a fyne to an other. Et sic de similibus where the right of the wife passeth from ỹ wife by force of the same, the wyfe in all such cases shalbe examined before that ỹ fine be excepted. And such fines conclude such wyues couert for euer. But where nothynge is moued in ỹ fine, but al onelye that the husband & the wife take estate by force of ỹ same fine, this shall conclude the wife for this that in such case she shall neuer be examined.

¶Also, if tenaunt in the taile discontinue the tayle & hath a daughter & dyeth, & the daughter being of full age taketh an husbande, & the discontinue maketh a lease of this to the husband & his wife for terme of their lyues, thys is a remitter in deede of the wife, & the wyfe is in by force of ỹ taile, causa qua supra.

¶Also if land be geuen to the husbande & hys wife to haue and to holde to them and to the heires of their two bodyes begotten, and after the husband alyeneth the land in fee, & taketh agayn an estate to him & to his wife for terme of their two lyues. In this case this is a Remitter in deede to the husbande and the wyfe mauger the husband, it may not bee a remitter to ỹ wife, except it be a Remitter to ỹ husband for this that the husbande & his wife bee but one persone in the law, though ỹ the husbande is stopped to clayme this to bee a Remitter in him against his alienation & his own reprisell as it is afore sayd.

¶Also, if land be geeuen to a woman in the taile, the remainder to an other in the tayle, the remaynder to the thyrde in the tayle, the remaynder to the sowerth in fee, and the wife taketh an husbande and the husbande discontinueth the lande of the wyfe by thys discontinuaunce all the remainders bee discontinued, for if the wyfe dye wythout issue, they in ỹ remainder shall haue no remedye, but to sue their writes of Formedone in the Remainder whan they come to their tyme &c. But if after suche discontinuaunce, estate bee made to

the husband and his wife for terme of theyr two lyues, or for terme of an others life or an other estate &c. for this, that this is a Remitter to the wife, this is a Remitter to all thole in the remaynder &c. For after thys that the wife that is in her Remitter dyeth wythoute yssue, they in the remaynder may enter &c. Without any accion or supte &c. In the same maner it is of them which haue ỹ reuersiō after such tayle &c.

¶ Also, if a man let a house to a woman for tearme of her lyfe, sauing the reuersion to the lessour, and after one sueth a faynt and false accion agaynst the woman, and recouereth the house againste her by default, so that the woman may haue against him a wrytte Quod ei deforceat, after the Statute of Westm the seconde, Cap. iiii. nowe is the reuersion of the lessour discontinued, so that hee ne maye haue no accion of waste. But in this case if the woman take an husband, and hee that recouereth letteth the house to the husband and his wyfe for terme of their two lyues, the wife is in her remitter by force of the first lease. And yf the husbande and the wyfe make waste, the fyrste lessour shall haue agaynst hym a wrytte of waste for thys, that in so muche that the wyfe is in her remitter, hee is remitted to hys reuersion. But it seemeth in this case if he that here cōmeth by the false accion, will bryng another wrytte of waste againste the husbande and hys wyfe, the husbande hath no remedye agaynste hym, but to make default at the great distresse

&c.

&c. And to cause the wife to bee disceiued and to plede ꝯ matter against ꝯ second lessour, and to swere that the accion by which hee recouered was false & fayned in ꝯ law, & so the wyfe may barre &c.

¶ Also if the husband discontinue the lande of his wyfe, & after taketh estate to him & to his wife, & to the third man for terme of their lyues, or in fee, this is a Remitter to ꝯ woman but as to the moity. And as for the other moity it behoueth her after ꝯ death of her husbande to sue a Cui in vita.

¶ Also if the husband discontinue the lande of his wife, and goe ouer the sea, and the discontinue let the same land to ꝯ woman for terme of lyfe, and deliuer to her seisine, and after the husband commeth and agreeth to that liuery of seisine, this is a Remitter to the woman, and yet if ꝯ woman had been sole at that tyme of her lease made to her, this should be to her a Remitter, but in so much as she was couert baron at ꝯ tyme of the lease, and the liuery of seisin made to her, though that shee onely take ꝯ liuery of seisine, this was a Remitter to her, beecause a woman couert shall bee iudged as an infaunt within age in suche case &c. Enquire in thys case, if the husbande when hee commeth agayne will disagree to ꝯ lease and liuerye of seisin made to hys wife in his absence, if this shall put the woman from her Remitter.

¶ Also, if the husbande discontinue the tenancye of hys wyfe, and the discontinuee is dis-

disseised, and after the disseisoure letteth the said tenements to the husbande and hys wyfe for terme of lyfe, this is a remitter to the wife but if the husband and the wife were of couin or consent that the disseisine shoold bee made, than it is no remitter to the wife, because shee is a disseisouresse. But if the husbande were of couine and consent to the disseisine, and not the wyfe, then such lease made to the wyfe ys a remitter, because that no default was in the wyfe.

¶ Also, if such a discontinue had made estate of free hoide to the husband and the wife made by indenture vppon condicion & reseruing to the discontinue a certein rent, and for default of payment a reentre, & beecause that the rent is behynde, the discontinue entreth of this rēt the woman shal haue assise of Nouel disseisine after the death of her husbande againste the dyscontinue, beecause that the condicion was wholly adnulled, in so much as ẏ womā was in her remitter, yet the husband with his wife could not haue assise because the husbande ys stopped.

¶ Also if the husbāde dyscontinue the tenementes of his wife, and taketh estate againe for terme of his lyfe, the remainder after hys disseise to his wyfe for tearme of her lyfe, in this case this is no remitter to the wyfe dudurypg the lyfe of her husbande, because that durypg the lyfe of the husband, the wyfe hath nothing in the free hold, but if in this case the wife ouerliue the husbande, this is a remitter

to the wife because that a free holde in law is fallen vppon her mauger her wil, & in so much that shee can haue no accion againste none other person, and against her seife she can haue no accion, therefore she is in her remitter. For in this case though that the woman enter not in the tenementes, yet a straunger that hath cause to haue accion may sue his accō against the woman of the same tenements because she is tenaunt in law, though shee bee not tenant in dede, for tenaunt of franktenement in deede is hee, that if hee bee disseised of franktenemēt may haue assise, but the tenant in the law before his enter shal haue no assise, and if a man seised in fee of certeine land hath issue a sonne which taketh a wife, and the father dyeth seysed, and after the sonne dyeth before any entre made by him into the land, ỹ wife of the sonne shalbe endowed in the land, and yet he had no franktenement in the deede, but he had a fee & a franktenement in law, and so note well that a precipe qō reddat may as well bee maintayned against him ỹ hath the franketenement in law, as against him ỹ hath frāktenemēt in dede.

Also if a tenant in the taile haue issue two sonnes of full age, and hee letteth the tailed lande to the elder sonne for tearme of his lyfe, the remainder to the ponger sonne for tearme of his lyfe, and after the tenaunt in the tayle dyeth In this case ỹ elder sōne is not in his remitter because he toke estate of his father, but if ỹ elder sonne dye without issue of his body thē

this is remitter to the ponger brother because hee is heire in the taile and a franketenement in lawe is fallen vppon him by force of the remainder, and there is none against whom hee may sue his accion &c. In the same maner it is where a man is disseised and the disseisour dyeth therof seised, and the tenementes descende to his heire and the heire of the disseisour maketh a lease to a man of the sayde tenementes for terme of lyfe the remainder to the disseisour for termeof lyfe or in taile or in fee, and the tenant for terme of lyfe dyeth. Now this is a remitter to the disseisy &c. Causa qua supra.

¶ Also if tenant in the taile enfeoffe his sonne and an other of the tailed lande in fee, and liuery of seisine is made to the other accordinge to the deede, the sonne not knowing thereof, nor agreeyng to the feoffement, and after hee that tooke the liuery of seisine dyeth, and the sonne occuppeth not the lande nor taketh any profite of the lande during the lyfe of hys father, and after the father dyeth, nowe thys is a remitter to the sonne, beecause the freeholde ys fallen vppon hym by the survyuour and no defaut was in him, because he neuer agreed to in the lyfe of his father, and there is none against whom he may pursue hys writ of Formedon &c. For if a man bee disseised of certein lande, and the disseisour maketh a deede of feoffement, whereof he enfeoffeth B. C. and D. And the liuery of seisin is made to B. and C. but D. was not at the liuery of seisine nor ne-

uer

ner agreed to the feoffement nor neuer would take the profits &c. And after B. & C. dye, & D. ouerlyueth them, and the disseisy bringeth his writte, sur disseisin in the per, against the same D. he shal shew al ỹ matter & how ỹ he neuer agreed to the feoffement, and so he shal discharge him selfe of dainmages so that ỹ demandāt shall recouer no damage against hym though that he bee tenaunt of franktenement of the lād. And yet the statut of Glocester will that the disseisy shall recouer dammages on a writte of entre grounded vpon the nouel disseisin against him that is founde tenaunt. And this is a proofe in ỹ other case that in somuche as the issue in the taile cometh to the franktenement not by his deede nor by his agreemēt but after the death of his father this is a remitter to him, in so much that he can sue an action of formedon against none other person.

¶ Also if an abbot alieue the lande of his house to an other in fee, and the aliene by hys deede chargeth the lande with a rent charge in fee, and after the aliene enfeoffeth ỹ abbot with licence to haue and to holde to the abbot and hys successours for euer, and after ỹ abbot dieth, and an other is chose and made abbot. In this case the abbot that is the successour, and hys conuent bee in their remitter, and shal hold the land discharged, because that the same abbot cannot haue any action of this writt of entre sine assensu capituli of ỹ same lād against none other person. In the same manke it is

Where a bishop or deane or other such persone alyen &c. without assent &c. And after the Bishop taketh estate agayne of the said lande by ayence to hym, and to his successors, and after the bishop dyeth his successour is in hys remutter as in the right of his church, & shall recouer the charge &c. causa qua supra.

¶ Also if a man sue a false accion agaynst tenaunt in the taile, as if a manne will sue agaynst him in writ of entre in the post, supposyng by his writ that the tenaunt in the taile had not his entre but by A. of B. that disseised the graundfather of the demaundant, and that is false, and he recouereth against the tenaunt in the taile by defaulte, and sueth execution, & after the tenant in the taile dieth, his issue may haue a writ of formedon against him that recouered and if hee will plede the recouerye agaynste the tenaunt in the taile, the issue may saye that the saide A. of B. disseised not the graundefather of hym that recouered in the maner as hys writte supposeth and so he shall stoppe his recouery. Also suppose that the was true that the sayde A. of B. disseysed the graundefather of the demaundaunt that recouered, and that after the disseisin ŷ demandant or his father, or his graund father, by a deede had released to the tenaunt in the tayle all the ryght that hee had in ŷ lande &c. And this notwithstanding he sueth his writ of entre in the post against the tenant in ŷ taile in the maner as is aforesaide, and the tenaunt in the tayle plea

pleadeth to him, that the sayde A. of B. dissey-
sed not his grandfather as his writ supposeth,
and vppon this they bee at issue, and the yssue
is found for the demaundant, wherby he hath
iudgement to recouer and sueth execution, and
after the tenant in the taile dyeth, his issa may
haue a writte of Formedone against him that
recouered. And if hee will plede the recoueryes
by accion tryed agaynst hys father tenaunt in
the taile, then he may shewe and plede there-
lease made to his father, and so the accion that
was sued was faint in the lawe &c. And yt
semeth that faint accion is as much to say in
Englishe fayned accion, that is to saye, suche
accion that though the woordes of his writte
bee true, yet for certeine causes hee hath no
cause nor tytle by the lawe to recouer by ȳ same
action. And false accion is, where the woordes
of the writte bee false, and in the twoo cases be-
fore sayde if the case were suche that after such
a recouery, and execution therof made, the te-
naunt in the tayle had disseised him that reco-
uered and thereof dyed seysed, whereby the
lande also discended vnto his issue, thys ys
a Remitter to the yssue, and the yssue is in by
force of the tayle, and for that cause I haue
put these twoo cases beefore sayde, to en-
dowrne thee my sonne, that yssue in the tayle
by force of a discent made to hym after a re-
couery and execution thereof made agaynste
his auncester, may bee as well in his remitter

as hee shoold bee by discent made to him after a discontinuance made by his auncestor of the tayled lande by feoffement in the countrey or otherwise.

¶ Also, in the same case aforesaid, if the case were such that after the demaundant had iudgement to recouer against the tenaunt in taile, and the same tenant in the taile dyed before any execution had against him where by the tenements descend to his issue, and hee that recouered sued a scire facias to haue execution of the iudgement against the issue in the taile the issue shall plede the matter as before is said & so shall proone that the recouerye was false or faint in the law, & so shal barre him to haue execution of the iudgement &c.

¶ Also, if tenaunt in the tayle discontinue the taile and dye and hys issue bringeth a writ of Formedone against the discontinue beyng tenaunt of the free holde of the lande, and the discontinue pleadeth that hee is not tenant but otherwise disclaimeth fro the tenauncy in the lande, in this case the iudgement shalbee that the tenaunt goe without daye, and after such iudgement the issu in the taile that is demaundaunt maye well entre in the lande notwithstanding the dyscontinuaunce. And by such entre he shalbe adiudged in his Remitter, and the cause is, becaule that if anye man sues a Precipe quod reddat against anye tenaunt of free holde, in whych accyon the demaundaunt shall not recouer dainmages, and the tenaunt pleadeth not nontenure, but otherwise disclaymeth

meth in the tenancy, the demaũdaunt may not auerre his writ that he is tenant as the writ supposeth. And for that cause the demaundant after that, ỹ iudgement is geuen that the tenaunt shal goe without daye, maye enter into the tenementes demaunded, the which shalbee as great aduaũtage to him in this lawe, as yf hee had iudgement to recouer againste the tenaunt. And by suche entre he is in the remitter by force of the taile, but where ỹ demaũdant recouereth damages againste the tenant, there ỹ demandant may auerre that he is tenaunt as the writ supposethe, and that for the aduauntage of the demaundant for to recouer his damages, or els he shal not receiue hys damages the whiche damages be or were geuen him by the lawe.

¶ Also, if a man bee disseised, and the disseysour dye his heire being in by discent, now the entre of the disseisy is taken away. And if the dysseisy bryng his writ of entre vpon the disseisin in the Per, against the heire, & the heire disclaymeth in the tenancye &c. the demaund aunt may auerre his writ that he is tenaunt as the writ supposeth if he wil, for to recouer his damages. But yet if he wil leaue the auerrement &c. he may lawfully enter into the land, because of the disclaimer, notwithstanding that his entre before was taken away. And that was adiudged before my maister sir Robert Dandye late chiefe iustice of the common place, and his compaignions.

¶ Also where the entre of a man is lawfull though ꝑ he take estate to him whē he is of ful age for terme of life, or in taile or in fee this is a remitter to him if such taking of estate be not by dede indented or by matter of record ꝑ shall conclude or stop him. For if a man bee disseised & thereof taketh estate of the disseisour whole mede or by deede poll, ꝑ is a good remitter to the disseysy.

¶ Also, if a man let land for terme of lyfe to another which alieneth to another in fee, & ꝑ alyenor maketh estate to the lessour, this is a remitter to ꝑ lessor because his ẽtre was lawful.

¶ Also, if a man be disseised, and the disseisour letteth the lande to the disseisy by deede poll or without deede for terme of yeares, whereby ꝑ disseisy entreth, this entre is a remitter to the disseysy. For in suche case where the entre of a manne is lawefull, and a lease is made to hym though that he clayme by woords in the countrey that he hathe estate by force of suche lease, or sayeth openlye that he claimethe nothing in the land, but by force of such lease, yet this is a Remitter to him for such clayme in the countrey is nothing to purpose, but if he clayme in the court of recorde that hee hath estate but by force of suche lease and not otherwise then hee is concluded &c.

¶ Also, yf two ioyntenauntes seysed of certayn lande in fee, the one beeing of full age, the other within age bee disseysed, & the disseisour dieth seised and his issue entreth, the one of the

ioynte-

iointenaunts being then within age, & after ꝑ he commeth to full age, the heire of the disseisor letteth the land to the same iointenāt for terme of their liues, this is a remitter as to the halfe to him ꝑ was within age because ꝑ hee is seased of that moitie that belongeth to him in fee, because his enter was lawful. But the other iointenant hath in the other halfe but estate for terme of life by force of the lease because his ētre was taken away &c.

¶ Warrantie. Cap. xiij.

IT is commonly sayde that there be three maner of warranties, that is to saye, warrantye lineal, warrantie collaterall, and warrantye that beginneth by disseisin. And it is to witte that before the statut of Glouceſter al warranties which descended to them whych were heyres to them that made the warrantie were barres to the same heires to demaunde any landes & tenementes against those warranties except the warraunties that beegan by disseysyn for suche warrantie was neuer barre to the heire because the warrantie beegan by wrong that is to say by disseisin.

¶ Warrantie that beginneth by dysseisin is in such forme. And where there is father & sonne & the sonne doth purchase land &c. and letteth the same land to his father for terme of yeares & the father by his dede thereof enfeoffeth another in fee, and byndeth him and his heires to

warranty, & if the father dye whereby ꝯ warrantie descendeth to his sonne, this warrantye shall not barre the sonne, for notwithstãding this warranty the sonne may wel enter in the land or haue an assise against the alien if he wil because the warrãty began by disseisin. For whē the father that hadde no estate but for terme of yeares made a feoffement in fee this was a disseisin to ꝯ sonne of franktenemẽt that then was in the sonne. In the same maner it is if ꝯ sõne let vnto the father the lãd to hold at wil & after the father maketh a feoffement wt warrantye &c. And as it is said of ꝯ father so may it be said of euery other aũcester &c.

¶ In the same maner it is if tenant by elegit, tenẽt by statute marchant, or tenant by statute staple make a feoffement in fee wt warrãty &c. this shal not barre ꝯ heire ꝯ ought to haue the land because ꝯ such warranties begynneth by disseisin.

¶ Also if a wardein in chiualry or wardein in socage make a feoffemẽt in fee or in fee tatle for term of life wt warrãty &c. Such warranties bee no barres to the heires to whō ꝯ land shall discend because ꝯ they begin by disseisin.

¶ Also if the father and the sonne pourchase certayne landes or tenementes to haue and to hold to them ioyntly &c. & after the father alieneth the whole to an other and bindeth him & his heires to warranty &c. and after the father dieth, this warrantie shall not barre ꝯ sonne of the moitie that belonged to him of the same tenements

nements, bycause that as to the moitye that he longed to the sonne the warranty began by dis seysin.

¶ Also if A of B be seased of a mese & F of G that hath no right to enter in ỹ same mese clay ming to hold the same mese to hym and to his heyres but A of B then is continually dwel lyng in the same mese, in thys case the posses sion of the franktenement shall bee alwaye ad iudged in A of B & not in F of G bycause that in such case where two be in one mese, or in o ther tenements, & the one claimeth by one title & the other by another title, the lawe shall ad iudge him in possession that hath right to haue the possessiō of the same tenement. But in the case afozesaid if F of G make a fooffemēt to cer tayn barretours & extozcioners in the cōtrey for to haue maintenaunce of them of the same mese by a dede of fooffement with warrant by force of which the said A of B dare not dwell in the same mese but goeth out of ỹ same mese this warrantie beginneth by disseysin, bycause that such a fooffement was cause that the said A of B left the possession of the same mese.

Also, if a manne that hathe no ryghte to enter in anothers tenementes, enter into the sayde tenementes and incontynent maketh a fooffement to other persons by his deede with warrantie, and delyuer to them seysyn. thys warrantye beginneth by disseisin, bycause that the disseysin and the fooffement were made as it were at one tyme. And that this is lawe, ye

may see it in a plee. Anno. xxxi. Ed. 3. in a writ of Formedon in the reuersion.

¶ Warrantie lyneall is where a man seased of certayne lande in fee maketh feoffement by his dede to another, and byndeth hym and his heirs to warranty, & hath issue & dieth and the warranty descendeth to his issue, this is lineali warrantie. And the cause why this is lineal warranty, is not bicause & the warrantie discendeth from the father to his heire, but the cause is because that if no such dede with warrantye had been made by the father, then the right of the tenementes should discende to the heyre, and the heire should conuey the discent from the father &c. For if there bee father and sonne, and the sonne purchase tenementes in fee, and the father disseaseth the sonne thereof and alyeneth it to another in fee by his dede, and by the same deede byndeth hym and his heyres to warranty the same tenementes and so forth, and the father dyeth, nowe is the sonne barred to haue the sayde tenementes, for he may by no sute nor by any other meanes euer the sayde tenementes bicause of the sayde warrantie. And that is a collaterall warrantie, and yet the warrantie descendeth lineally from the father to the sonne. But bicause that if no suche deede wyth warrantye hadde bee made, the sonne in no manner myght conuey the tytle that hee hath of the tenementes from hys father to hym, in so muche that hys father hadde no estate nor ryghte in the tene-

mentes, therfore such warrantie is called collaterall warrantie. In so much that hee that made the warrantie is collaterall to the tytle of the tenements, and that is as much to say, that he to whom warrantie descended, coulde not conuey the tytle that he hadde in the tenements by him that made the warranty, in this case if no such warrantie had be made.

¶ Also, if there be graundfather, father, and sonne, & the graundfather is disseysed in whose possession the father releaseth by his dede with warrantie &c. and dyeth, & after the graundfather dyeth, now is the sonne barred of the tenements by the warranty of his father, & this is called lineall warrantie, bicause that if no such warranty had be made, ỳ same might not haue conueyed the right of the tenementes to hym, nor shew how he is heire to the graundfather, but by meanes of the father &c.

¶ Also, if a man haue issue three sonnes and is disseysed, and the elder sonne releaseth to the disseysour by his deede with warrantie &c. & dieth without issue, and after this the father dyeth, this is a lineal warranty to ỳ yonger sonne, bicause that though the elder sonne dyed in the tyle of the father, yet by possibilitie it might bee that he myght conuey to hym the tyle of the lande by hys elder brother, if no such warrantie had bee made. For it might be that after the death of the father, the elder brother entred into the tenements & died without issue, and then the younger sonne shall conuey

to him ye title by his elder brother. But in this case if the ponger sonne release with warrantie to the disseisor & dieth without issue, this is a collaterall warrantie to the eldest sonne, because that of such land as was to the other, the elder brother by no possibilitie myght convey to him the title by meane of the yōger brother.

¶ Also, if tenaunt in the tayle haue issue three sonnes and discontinue the taile in fee, and the myddle sonne releaseth by his dede to the discontinue and bind him and his heyres to warrantise &c. and after the tenant in the tayle dye and the middle dieth without issue, now is the elder sonne barred to haue anye recouery by a writ of Formedon, because that the warranty of the middle brother is collateral to him, in so much that he may by no maner convey to him by force of the tayle any discent by the myddle brother, and therefore it is a collateral warrantie. But if in this case ye elder brother die without issue, now the ponger brother maye well haue a Formedone to the discendre and recouer the same lande, because that the warrantye of the middle brother is lyneall to the pongest brother, because it may bee that by possibilitie the myddle brother may bee seysed by force of the tayle after the death of hys elder brother, and then the pongest brother may convey hys title of discent by the middle brother &c.

¶ Also if tenaunt in the tayle discontynue the tayle and hath issue, and dye, and the vncle of the issue release to ye discontinue with warrantie

rantie and dye without issue, this is a collateral warrantie, to the issue in the tayle, because that the warrantie discendeth vpon the issue, which cannot conuey himselfe to the tayle by meane of his vncle.

¶ Also, if tenant in the tayle haue issue two daughters & dye, & the elder daughter entreth into the whole, & thereof maketh a feoffement in fee with warrantie, & after the elder daughter dieth without issue, in this case ỹ ponger daughter is barred as to the moity, & as to the other halfe she is not barred for as to the moity that belõgeth to the ponger daughter she is barred because that as to the moity that belongeth to hir she cannot cõuey the discent by the meanes of hir elder sister. And therfore as to that moity that is a collaterall warrantie, but as to the other moity which belonged to hir elder sister by the same elder sister the warranty is no bar to the ponger sister, bycause that she may conueigh hir discente as to that moity that belonged to hir elder by the same elder sister. And so as to that moitie that belonged to ỹ elder sister the warrantie as to that is lineal to the ponger sister. &c.

¶ And note well that as to him that demaundeth fee simple by any of hys auncesters, shee shall be barred by lyneal warrantie which discendeth vppon him, excepte it be restrayned by some statute, but he which demandeth fee taile by a writ of Formedon in the discender shall not be barred by lyneall warrantie, excepte he

haue

haue inough by discent in fee simple by ỹ same auncester that made the warrantie. but a collaterall warrantie is barre to him that demaũdeth fee, and also to hym that demaundeth fee tayle, without any other discent of fee simple, except in cases that bee restrayned by the statute, & other cases for certayne causes as shall be sayde hereafter.

¶ Also, if land be giuen to a man and to hys heires of his body begotten, the which taketh a wife & haue issue a sonne betweene them, and the husband discontinueth the tayle in fee, and dyeth, & after the wife releaseth to the discontinuee in fee with warrantie and dyeth, and the warranty descendeth to the sonne, this is a collaterall warrantie. But if tenements be giuen to the husband & the wyfe, and to the heires of their two bodies begotten whych haue issue a sonne, & the husband discontinueth the tayle & dieth, & after the wife releaseth with warrãtie & dieth, this warrantie is but a lineall warranty to the sonne, for the sonne shal not be barred in this case to sue his writ of Formedõ, except he haue inough by discent in fee simple by hys mother bicause that theyr issue in a writte of Formedone ought to conuey to hym the ryght as heyre to his father & to his mother of theyr two bodyes begotten by fourme of the gyft. And so in suche case the warrantie of the father and the warrantie of the mother bee but as lineal warranties to the heire &c. And note well that in euery case where a man demaundeth

deth

deth tenementes in fee tayle by a writ of Formedon, if any of the issue in the tayle that had possession or that hath possession make a warrantie & if he that sueth the writ of Formedō might by any possibilitie by matter that might be in deede conueyed to him by him that made the warrantie by the forme of the gifte. This is a lineal warrantie, and not collaterall.

¶ Also, if a man haue issue three sonnes, and he giueth lande to his eldest sonne to haue and to hold to him & to the heires of hys body begotten, and for defaute of such issue the remaynder to the middle sonne to hym, and to the heyres of hys bodye begotten, and for defaute of such issue the remaynder to the yongest sonne, and to hys heyres of hys body begotten, in thys case if the eldest sonne discontinue the tayle in fee and dyde hym, and hys heyres to warrantie & dye without issue, this is a collaterall warrantie to the myddle sonne and he shall bee barred to demaunde the same lande by force of the remaynder, because that the remaynder is hys tytle and his eldest brother is collaterall to the tytle which beginneth by force of the remaynder.

¶ In the same maner it is if the middle sonne had the same lande by force of the remaynder, because that his eldest brother made no discontinuance, but dyed without issue of hys body and after the middle sonne maketh a discontinuance with warrantie &c. and dyeth without

out issue, this is a collaterall warrantie to the
yongest sonne & also in this case if any of ſ sd
sonnes be disseased, & the father that made the
gifte release to the disseysour all hys right &
with warranty, this is a collaterall warranty
to that sonne vpon who the warrantie descen-
ded causa qua supra. And so note well ſ when
a man that is collateral to the title &c. releaseth
with warrãtie, that is a collateral warranty.

¶ Also, if the father giue lande to hys elder
sonne to haue and to hold to him & to the heirs
males of his body begotten the remaynder to
the seconde sonne &c. if the eldest brother entre
in fee with warranty & hath issue, sengle
& dieth without issue male, this is not a colla-
terall warrantie to the seconde sonne, nor shall
not hurt him of his action by Formedon in the
remaynder because that the warrantie descen-
deth to the daughter of the eldest sonne, and
not to the seconde sonne. ¶ Or elles warrantie
that descendeth, descendeth to him that is heyre
vnto him vnto whych made the warrantie by the
constitucion of the lawe.

¶ Also, if land be giuen to a man and to his
heyres males of hys body begotten, and for
default of such issue the remaynder ouer to
hys heyres females of hys body begotten, and
after the donee in the taile maketh a feoffement
in fee with warrantie according and hath is-
sue a sonne & a daughter, and dyeth this war-
rantie is but a collateral warrantie to the sonne
to demaunde by wrytt of Formedon in the dis-
cendre,

ander. And it is but lyneall to the daughter to demaund the same land by writt of formedon in the remainder, if her brother dye without heire male because that shee claymeth as heire female of the body of her father begotten. But in this case if her brother in his life release to the discontinue &c. with warrantie &c. And after die without issue, this is a collateral warrantie to the daughter, because ỳ she cānot cōvey to her the right ỳ shee hath by force of the remainder by any meane of assent by her brother, and therefore the brother is collateral to the title of his sister, and therefore his warranty is collateral &c.

¶ Also I haue harde saye that in the time of king Rycharde the seconde there was a knight in the common place dwelling in Kente, called Kikhil, that had issue diuers sonnes. And hys entent was, that hys eldest sonne should haue certayne landes to hym and the heirs of his bodye begotten, and for defaute of issue, the remainder to his seconde sonne and so forthe, And so the thyrde sonne &c. And because that he woulde that none of his sonnes should alien or make warrantie for to barre or to hurt that other that should be in the remainder &c. He caused to be made an indenture to such effect, that is to say that the landes and tenemētes were geuen to his eldest sonne vpon thys condicion, that if the eldest sonne aliened in fee or in fee taile &c. or anye of his sonnes aliened &c. ỳ the their estate should cease ỳ shoulde bee

boyde, and that then the sayde landes or tenementes immediatlye should remayne to the second sonne and to the heires of hys bodye begotten and that vppon the same condicion &. that if the second sonne alyen &c. that then his estate should cease, and that thā the same lāds & tenements should remaine to the third sonne, & to the heires of his body begotten & so forthe, the remainder to other of his sonnes & liuery of seisin was made accordyng. But it seemeth by reason y al suche remainders in the forme beforesayde bee boyde, and of no value, and that for three causes. One cause is becaufe euerye remainder that begynnethe by a deede, it behoueethe that the remainder be in hym to whō the remaynder is taylled by force of the same deede when the liuerye of seysyn is made to hym that hathe the franktenement. And suche remainder was not to the seconde sonne at the time of liuerye of seisin in the case beforesaid &c.

¶ The second cause is if the firste sonne alienc the tenements in fee, then is the franktenement and the fee simple in the alyenee and in none other, and if the donour had any reuersyon by such alienacio, the reuersion is discontynued, then though that by some reason it maye bee that such remaynder shal begynne his berying and his growyng. Immediatly after such alyenacion made to a straunger that hathe by the same alyenacion fraunktenement and fee symple, and also if suche remaynder shoulde

bee

bee good, then might he enter vppon the alienee where he had no maner of right before the alienacion, which should be inconuenient. The third cause is when the condicion is such ꝑ if the eldest sonne alienc &c. ꝑ his estate shal cease, or shalbee voyd &c. then after suche alienacion &c. may ꝑ donour entre by force of such cõdiciõ &c. as it seemeth, & so the donoure or his heires in such case ought more sooner to haue the lãd thẽ the second sonne ꝑ had no right before such alienaciõ &c. & so it seemeth ꝑ such remainders in the case beforesayd be voyd.

Also, at the common law before the statut of Glouceſter, if tenaunt by the curteſye had alined in fee with warranty accordaunt, after his decease this was a barre to the heir &c. as it appeareth by the wordes of the same statute. But it is remedied by the same statut, that the warranty of the tenaunt by the curteſye shalbe no barre to the heire, except hee haue nough by diſcent by the tenaunt by the curteſye, for before the sayde estatute that was a collateral warrauntye to the heire, beecause hee coulde not conueye any title of dyſcent to the tenementes by the tenaunt by the curteſye, but onely by his mother or other of his auncesters &c. and that is the cause why it was collateral warranty. But yf a manne enherite take a wyfe, whiche haue issue a sonne betweene them and the father dyeth, and the sonne entreth in the lande, and endoweth his mother and after his mother alyeneth that that shee hath in her

dower

dower to another in fee, with warranty accoꝛdyng, and after dyeth, and the warraunty descendethe to the sonne, nowe the sonne shall bee barred to demaunde the same lande because of the sayde warraunty, because that such collaterall warraunty of tenaunt in dower is not remedied by any statut. The same law is where tenant foꝛ terme of life maketh an alienatiō with warrantie &c. and dieth, and the warrentie descendeth to him that had the reuersion oꝛ the remayndze &c. they shalbee barred by suche warrantie &c.

¶ Also, in the sayde case if it so were that whē the tenaunt in dower alyenethe &c. the heire was within age and also at that tyme that the warranty descendeth vpon him, he was within age, in thys case the heire maye after entre vppon the alyenee notwithstanding the warranty descended &c. because that no laches shall be adiudged in the heire wythin age, that he entred not vppon the alienee in the lyfe of the tenaunt in dower, but if the heire was within age at the time of the alienation, and after he came to full age in the life of the tenaunt in dower, and so being of full age hee entered not in the lyfe of the tenaunt in dower, and after ỹ tenaunt in dower dyeth, there peraduenture the heire shalbee barred by such warranty because it shalbe accompted his folly that he beyng of full age, entred not in the life of the tenaunt in dower &c.

¶ Also, it is spoken in the ende of the sayde

estatute

estatut of Glouceſter, ꝑ ſpeaketh of the alienacion & warrantie made by the tenant by ꝑ curtesy in fuely fourme.

¶ Alſo in the ſame maner the heire of the woman after the death of her father & mother ſhall not be barred of action if he demaũd the herytage or ꝑ mariage of his mother by a writ of Entre ꝑ his father alienedin ꝑ time of his mother, wherof no fine is leuied in ꝑ kings court &c. And ſo by force of ꝑ ſame ſtatut if the husband of the wife aliene the heritage or mariage of his wife in fee & warranty &c. by his deede in the countrey, this is cleare law ꝑ this warrantie ſhall not barre the heire except hee haue yonguy by diſcẽt &c. But the doubt is ꝑ the husband alien the heritage of his wife by fyne leyed in the kings courts & warranty &c. yt this ſhall barre the heire ſoute anye diſcent in dede &c. And as to ꝑ, I will ſay here certaine reaſons that I haue hard ſay in this matter. I heard my maſter ſir Richarde Newton late chiefe iuſtice of the common place, ſaye once in the ſame place, ꝑ ſuche warrantie ꝑ the baron maketh by fine leuied in the kynges court ſhall barre the heire though that hee haue nothyng by diſcent, becauſe the ſtatut ſayethe, wherof no fine is leuied in the kynges court &c. And ſo by his oppinion, this warrantie by fine extendeth yet a collaterall warrantye as it was at the common lawe not remedied by the ſayde ſtatute, becauſe that the ſayde eſtatute excepteth the alyenacion by fyne with warrantye.

S.i. And

some other haue sayd & yet say the contrary, & they gyue their proofe, that as by the same Chapiter of the sayd estatut, it is ordeyned & ȳ warrauntie of the tenant by the curtesy shall not bar the heire except he haue ynough by discent &c. though that the tenant by the curtesy leuye a fine of the same lands with warrauntie &c. as strongly as he can, yet this warrantie shal not barre the heire except he haue assets or ynough by discent. &c. And I let true that this is law, and therefore they say that it should bee inconuenient to vnderstande the statute in such forme that a man that hath not but in ȳ right of hys wyfe, maye by fyne leuyed by himself of the tenementes that he hathe but in the right of his wife with warrauntie &c. barre the heire of the sayde tenementes without discent of the fee simple &c. where the tenant by curtesy can not doode it. But they haue sayde, that the statute shalbe vnderstand after this forme that is to saye, where the statute speaketh, whereof no fyne is leuyed in the kynges court, that is to saye, where no true full fyne is right fully leuied in the same kynges courte, and that is, whereof no fyne of the husband & his wyfe is leuied in the kynges courte, for at the tyme of the makyng of the sayde statute, euery state of landes or tenementes that anye man or woman hadde that should discende to hys heire was fee simple without condicion or vppon condicion in deede or in lawe. And because that such fine then myght lawfully haue been leu-

ed by

ed by the husbande and his wyfe, and that the heires of the husbande warraunt &c. suche warrantie shall barre the heire &c,

¶ And so they say that this is the understanding of the saide statute, for if the husbande & the wyfe made a feoffement in fee by deede in the countrey, the heire after the decease of the husband & the wife shall haue a writ of entre sur cui in vita &c. notwithstanding the warrantie of the husband. Then if no such exceptiō was made in the statut of the fine leuied &c. thē the heire should haue the writ of entre &c. notwithstanding the fine leuied by the husbād & the wife, because ỹ the woordes of the statut before the exception of the fine leuied &c. be generally &c. that is to saye, that the heire of the woemanne after the death of her husband and the wife shall not be barred of action if he demaund the heritage or the marriage of his mother ỹ a writ of entre that his father aliened in the time of his mother, and so it should bee in the case of the statute except suche woordes were, that is to saye, whereof no fine is leuied in the kyngs court, And so theye saye that this is to understande, whereof no fine by the husbande and the wife is leuied in the kyngs courte the whiche is lawefully leuied in such case. For yf the iustices haue knowledge ỹ a man that hath nothing but in ỹ right of his wife, will leuye a fyne in his name onelye, they will not nor ought not to take such fine to bee leuied by the

husband onely without naming the wife, therfore enquere of this matter.

¶ Also it is to weete that in suche woordes where the heire demaundethe the heritage of mariage of his mother, this woord is a diffuse title. & is as much to say, if the heire demaunde the heritage of his mother, that is to be vnderstand the tenements ỹ his mother hadde in fee simple by discent or by purchace, or if the heire demaund the mariage of his mother, ỹ is to say, the tenements ỹ were geuen vnto his mother in frankmariage.

¶ Also where it is moued in diuers deedes these woords in latin. Ego et heredes mei &c. warrantizabim⁹ & imperpetuum defendem⁹, it is to see what effect hath that woord defendemus in such deedes. And it seemeth ỹ it hath not the effect of warrantise, nor cõprehendethe any cause of warrantise, for if it shoulde bee so that it taketh effect or cause of warrantise, thã it should be put in some fines teuied in ỹ kings court. And a mã neuer sawe ỹ these woords defendemus was in fine but onely this woorde warrantizabimus, by which it seemeth ỹ this verbe warrantizo maketh warrantye, & is the cause of warrantise, and none other woorde in our lawe.

¶ Also if tenant in the taile bee seised of tenements deuisable by testament after the custome &c. And the tenaunt in the taile aieneth the tenementes to his brother in fee, and hathe issue and dyeth, & after his brother deyseth

by

by his testament the same tenemẽts to another to fee, & bindeth him and his heires to warrantise &c. and dieth without issue, it seemeth that this warrantie shall not barre the issue in the tayle if he wil sue his writ of Formedone, by=cause that his warrantie descended not to the issue in the taile, in so much as the vncle of the issue was not bound by force of the same warrantie in his life. And therof that he could not warrant the land in his life, is in so much that the deuisee could not take any execucion or ek=leete but after his decease, & in so much that the vncle in his life was not holde to warrantye, such warrantise ne may not discend from hym to the issue in the taile &c. for nothing may dis=cend frõ the auncester to his heire but the same that was in the auncester. Also a warrantie may not go without the nature of tenementes by custome, but onely after forme of the cõmon law, For if tenant in taile be seased in tenemẽts in borough english, where the custome is that all tenemẽts of the same borough ought to dys=cende to the yongest sonne, & hee discontinueth the tayle wyth warrantise &c. & hath issue two sonnes, & dieth seised of other lands & tenemẽts in the same borough in fee simple to the value and more of the tenementes tayled & so forth, yet the yongest sonne shall haue a Formedone of the tenementes tayled, & shall not be barred by the warrantise of his father though inough to him descended in fee symple fro the same fa=ther after the custome, for thys that the war=

rantie descendeth vppon the elder brother that is in full lyfe &c. & not vpon the yonger sonne. In the same maner it is of collateral warrantise made of such tenements where ỹ warrantise descendeth to the elder sonne &c. this shall not barre the yonger sonne &c. In ỹ same maner it is of tenementes in the shyre of Kente, which be called Gauelkinde, ỹ which tenemẽts be departable among the brethren &c. after the custome &c. if any such warranty bee made by their aunceſtours, such warrantie descendeth alonely to the heire that is heire by the cõmon law, & not to all the heires which are heires of such tenements after the custome &c.

¶ Also, if a tenaunt in tayle haue issue two daughters by dyuers ventres, and dyeth, and the daughters enter and a straunger disseiseth them of the same tenementes, and one of the daughters releaseth by hyr deede to the dysseysour all hir righte, and byndeth hyr and hyr heires to warrantise, & dyeth without issue, in this case ỹ firste that survyueth may wel enter and put out the dysseysour of all the tenements for this that such warrantise is no dyscontynuance nor collaterall warrantyse to the syster that survyueth, for this that they be of halfe bloud, and the one may not bee heire to the other after the common lawe. But otherwise it is where there bee daughters of tenauntes in the tayle by one venter.

¶ Also if tenaunt in the tayle let tenements to another for terme of life the remainder to an

other

other in fee, and the collateral auncestor confirmeth the estate of the tenant for terme of life & bindeth hym and his heires to warrantise for terme of life of the tenāt for terme of life & dieth & the tenant in the taile hath issue & dieth, now this issue is barred to aske the tenementes by writ of formedon during the life of the tenāt for terme of life, because of the collateral bynder vpon the issue in the tayle. But after the decease of the tenāt for terme of life, the issue shall haue a formedon &c. And vpon this I haue heard a reason that this case shal proue by another case, that is to say, if a man let his lande to another, to haue and to holde vnto hym and to his heyres for terme of anothers lyfe, and ỳ lessour dyeth, leauyng him to whose lyfe &c. And a straunger entreth in the land, that the heyre of the lesse may put him out, for this that in the case nexte aforesayde, insomuche that a man may bynde him and his heyres to warrante to the tenaunte for terme of lyfe, alonely during the lyfe of the tenaunte for terme of lyfe, & the warrantise descendeth to the heyre of him that made the warrantise, the whiche warrantise is no warrantise of inheritaunce, but alonely for terme of anothers lyfe, by the same reason where tenementes be lette to a man to haue and to holde to hym and to hys heyres for terme of anothers lyfe, yf the father dye, liuing him to whose life &c. hys heyre shal haue the tenementes yuinge hym to whose lyfe &c. For thei haue said, that if a man graūt

an annuitie to another to haue and to take to hym and to his heyres for terme of anothers life if the grauntee die &c. That after his heyre shal haue the annuitie during the lyfe of hym to whole life &c. Quere de isha materia &c.

¶ But where such lease or graunt is made to a man of hys heyres for terme of yeares, in this case the heire of the lessee & the graunter shall neuer haue after the death of the lessee or the grauntee that, ꝑ is so letten or graunted, for thys that it is chattell reall, and all chatell reals by the common lawe shal come to the executours of the grauntee or the lessee, and not to the heyre &c.

¶ Also in some cases it may bee, that howbeit that a collaterall warrantise be made in fee &c. yet such warrantise may be defeated & anyented. As the tenaunt in the tayle dyscontinueth the tayle in fee, & the dyscontinue is dysseysed, and the brother of the tenaunt in the tayle releaseth by his dede to ꝑ disseisour all his ryght &c. with warrantise in fee, and dyeth wythout issue, and the tenant in the tayle hath issue, and dyeth, nowe the issue is barred of hys action by force of the collaterall warrantise descendyng vpon him, but if after this the discontinue enter vpon the disseysour, then may the heyres in the tayle haue his action of Formedone &c. for this that the warrant is anyented and defeated. For when the warrantise is made vnto a man vppon any estate that then hee had, if the estate be defeated, the warrantie is defeated.

In

¶ In the same maner it is if the discontinue make a feoffemt in fee reseruing to him certain rente, & for defaut of payment a reentre &c. & a collaterall auncestor releaseth to the feoffee that hath estate vpon condicion &c. & dyeth without issue though that the warrantie descend vpon the issue in the tayle, yet if after the rent be behind & the discontinue entreth into the land &c. then the issue in the tayle shal haue his recouery by a writte of Formedon, for this that that warranty collaterall is defyled. And so if any such collateral warranty be pleded against the issue in ỹ taile in his actiõ of Formedõ, he may shew ỹ matter as it is aforesaid, how ỹ warrãty is defeated, & so he may wel maintayne his action.

Also if tent in the tayle make a feoffemt to his vncle, and after his vncle maketh a feoffemt in fee with warrantise &c. to another, & after the feoffee of the vncle enfeoffeth agayne the vncle in fee, & after the vncle enfeoffeth a straũger in fee without warrantise, & dieth without issue, & the tent in ỹ tayle wil bring his writ of Formedon against the stranger that was in the feoffemt &c. by ỹ vncle, in this case the issue shall neuer be barred by the warranty ỹ was made by the vncle to ỹ sayd first feoffee of his vncle, for this that the sayd warrãtise was defeated & anyented, for this that the vncle toke agayne to him as great estate of hys sayde first feoffee to whõ the warrantie was made as the same feoffe had of him. And the cause why the warrantie

rantie is aniented, in thys case is thys, ỹ is to say, ỹ if the warrantise were in his force, than the vncle shall warrant vnto hymselfe ỹ may not bee, but yf the feoffee made estate to ỹ vncle for terme of lyfe or in fee tayle, sauynge the reuersyon vnto him &c. Or ỹ he make a gyfte in the tayle to the vncle, or a lease for terme of life, the remainder ouer &c. In this that warrantise is not all vtterly anićted, but it is put in suspence durynge the estate that the vncle had, for after thys that the vncle is ded without issue, then he in the reuersyon or he in the remayndre shall barre the issue in the tayle of his writ of Formedone by the collateral warrantise in suche case &c. But otherwyse it is wher the vncle had as great estate in the land by the feoffee to whome the warrantise was made as the feoffee had of him &c.

¶ Also if the vncle after such feoffement made with warrātise or a release made by him with warrantise bee attaynt of felonye or outlawed of felonye, such collaterall warrantye shall not barre nor greue the yssue in the tayle, for this that by the attaynder of felonye, the bloude is corrupte betwene them. &c.

¶ Also, if tenant in the taile be disseysed, & after maketh a release to ỹ disseysour with warrantise in fee, and after the tenaunt in the taile is attaynt, or outlawed of felony, & hath issue & dieth, in this case the issue in the tayle maye enter vpon the disseysour.

¶ And the cause is for this, ỹ nothing maketh discon=

discontinuance in this case but ẏ warrantie, & the warrantie may not discend to ẏ issue in the taile, for this ẏ the blood is corrupt betweene him that made the warrantie & the issue in the tayle. For the warrantise alway abideth at ẏ common law, & the cõmon law is such, ẏ whẽ a man is outlawed or attaint of felony, which outlary is an attaynder in the law ẏ the blood betweene him & his sonne and all other which should be said hys heires is corrupt, so that nothing by discent may descende to any that may be his heire by the cõmon law. And ẏ wife of such a man ẏ is so attaint shal neuer be endowed in ẏ tenemẽts of hir husband so attaint &c.

¶ And the cause is because men should more eschewe to doe felony &c. But the issue in the taile, as to the tenements tayled is not in such case barred because he is inherited by force of the statute and not by the course of the cõmon lawe. And therefore such attaynder of hys father or of his auncestor in the tayle &c. shal not put him out of his ryght, that he should haue by force of the tayle.

¶ Also, if tenaunt in the tayle enfeoffeth his vncle which enfeoffeth another wyth warrantie &c. if after the feoffee by hys deede release to the vncle al maner of warrãtie, or al maner of couenauntes reals, or all maner of demaundes, by suche release the warrantie is extinct. And yf the warrauntye in suche case bee pleaded agaynste the heyre in the tayle that bryngeth his writ of Formedon to barre ẏ heire of

hys

his action of the heyre haue and plede the ſayd releaſe &c. he ſhall defeate the plee in barre &c. And manye other caſes and matters be there, wherby a man may defeate warranties.

¶ And it is to weete that in the ſame maner as collaterall warrantie may bee defeated by matter in deede or in lawe, in the ſame maner may lineall warrantie bee defeated &c. For if the heyre in the taile bring a writ of Formedon & a lyneall warrantie of his auncеſter inheritable by force of the taple be pleaded againſt him with that ỹ aſſets to him diſcended of fee ſimple by the ſame auncеſter ỹ made the warrantie if the heire that is demaundaunt may adnul & defeate the warranty this ſuffiſeth to him, for ỹ diſcent of other tenemẽts of fee ſimple maketh nothing to barre ỹ heire with out the warrantie &c.

FINIS.

Here beginneth the table of this present booke.

NOwe haue I made for thee my sone three bookes.
The first is of estate ỳ men haue of lands or tenements, ỳ is to say.
Of tenaunt in fee simple.
Tenaunt in fee tayle.
Tenaunt in the tayle after possibylytie of issue extinct.
Tenaunt by the curtesy of England.
Tenaunt in dower.
Tenaunt for terme of life.
Tenaunt for terme of yeares.
Tenaunt at wil by the common law.
Tenaunt at will by the custome of the maner.

The second booke.

The second booke is of homage.
Fealtie.
Elcuage.
Knights seruice.
Socage.
Frankalmoigne of free almes.
Homage auncestrel.
Graund sergeantie,
Petty sergeanty.
Tenure in burgage.
Tenure in villenage.
Of three manner of rents, that is to saye
Rent seruice.

Rent

Rent charge.
And rent ſecke.

¶ And theſe two ſmall bookes haue I made for thee for to vnderſtande better certaine chapiters of the auncient bookes of tenures.

¶ The thyrd booke.

¶ The thirde booke is of perceners.
Of ioyntenantes.
Tenauntes in common.
Eſtates of landes or tenementes vpon condi.
Diſcentes that take awaye entres.
Continuall claime.
Releſſes.
Confirmacions.
Attournementes.
¶ Remitters.
Of garranties, that is to ſaye.
Garrantie ſimple,
Garrantie collaterall.
And Garrantie that beginneth by diſſeiſin.

¶ And know thou my ſonne that I will not that thou beleue that all ther ſ I haue ſayd in the ſayd bookes be lawe, for that wyll I not take vpon me nor preſume. But of thoſe thinges that be not lawe enquire and learne of my wiſe maiſters learned in the lawe. Notwithſtandinge thoughe that certaine thinges that bee noted and ſpecified in the ſayde bookes bee not lawe, yet ſuche thinges ſhall make thee more apte and hable to vnderſtande, and

learne

learne the argumentes and the reasons of the lawe. For by the argumentes and the reasons in the lawe, a man maye more soner come to the certaintie and to the knowledge of the lawe. Lex plus laudatur quando ratione probatur.

(.)

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Cum privilegio.